

**CITY OF NEWARK
DELAWARE
COUNCIL MEETING MINUTES**

May 14, 2018

Those present at 6:00 p.m.:

Presiding:	Deputy Mayor Stu Markham District 1, Mark Morehead District 2, Jerry Clifton District 3, Jen Wallace District 4, Chris Hamilton District 5, Jason Lawhorn
Absent:	Mayor Polly Sierer
Staff Members:	Acting City Manager Tom Coleman City Secretary Renee Bensley City Solicitor Paul Bilodeau Communications Manager Kelly Bachman Communications Officer Megan McGuriman Acting Deputy City Manager Mark Farrall Finance Director David Del Grande Acting Public Works & Water Resources Directory Tim Filasky Assistant to the Managers Mark Brainard

1. Mr. Markham called the meeting to order at 6:00 p.m.

2. **EXECUTIVE SESSION**

- A. Executive Session pursuant to 29 *Del. C.* §10004 (b)(4) and (6) for the purpose of a strategy session involving legal advice from an attorney-at-law, with respect to potential litigation when an open meeting would have an adverse effect on the litigation position of the public body and discussion of the content of documents, excluded from the definition of "public record" in § 10002 of this title where such discussion may disclose the contents of such documents
- B. Executive Session pursuant to 29 *Del. C.* §10004 (b)(4) and (6) for the purpose of a strategy session involving legal advice from an attorney-at-law, with respect to potential litigation when an open meeting would have an adverse effect on the litigation position of the public body and discussion of the content of documents, excluded from the definition of "public record" in § 10002 of this title where such discussion may disclose the contents of such documents
- C. Executive Session pursuant to 29 *Del. C.* §10004 (b) (4) and (9) for the purpose of a strategy session involving legal advice from an attorney-at-law, with respect to potential litigation when an open meeting would have an adverse effect on the litigation position of the public body and for discussing personnel matters in which the names, competency and abilities of individual employees are discussed
- D. Executive Session pursuant to 29 *Del. C.* §10004 (b) (4) for the purpose of a strategy session with respect to collective bargaining when an open meeting would have an adverse effect on the bargaining position of the public body

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: TO ENTER EXECUTIVE SESSION PURSUANT TO TITLE 29, SECTION 10004 FOR TWO ITEMS FOR (B)(4) AND (B)(6) SUBSECTIONS AND FOR ITEMS (B)(4) AND (B)(9) SUBSECTIONS FOR THE PURPOSE OF A STRATEGY SESSION INVOLVING LEGAL ADVICE AND A MOTION FOR TITLE 29, SECTION 10004 (B)(4) FOR THE PURPOSE OF A STRATEGY SESSION WITH RESPECTIVE TO COLLECTIVE BARGAINING.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.
Nay – 0.
Absent – Sierer.

Council entered executive session at 6:00 p.m. and exited executive session at 7:00 p.m.

3. RETURN TO PUBLIC SESSION

1:10

MOTION BY MR. MOREHEAD, SECONDED BY MR. CLIFTON: THAT COUNCIL AUTHORIZE THE EMPLOYEE DISABILITY PENSION BENEFIT AS SET FORTH IN THE ACTING DEPUTY CITY MANAGER'S MEMO TO COUNCIL DATED MAY 11, 2018 AND AS OUTLINED IN EXECUTIVE SESSION.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

4. Mr. Markham asked for a moment of silence and the Pledge of Allegiance.

5. 1. PUBLIC PRESENTATIONS:

A. Proclamation Declaring May 18, 2018 as Bike to Work Day – BikeNewark

02:20

Ms. Bensley read the proclamation into the record. It was presented to a representative of BikeNewark and Newark Bike Project.

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: TO APPROVE THE PROCLAMATION.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

6. 2. ITEMS NOT ON PUBLISHED AGENDA

A. Elected Officials who represent City of Newark residents or utility customers – None

7. 2-B. UNIVERSITY

(1) Administration

05:05

Caitlin Olsen, UD Government Relations, shared the U Don't It event was beginning collections on May 22, 2018. Collection would continue on STAR campus through June 7, 2018. Ms. Olsen advised commencement would be May 26. Gates opened at 7:00 p.m. Ms. Olsen noted there were ceremonies that Friday as well. Alumni Weekend was June 1 – June 3. Ms. Olsen had a list of family-friendly events she would forward to Council. She said everyone was welcome. Ms. Olsen wished to talk about the University's Community Engagement Ambassadors. These were students that included the undergraduate student body in community engagement and service while strengthening and expanding student awareness and involvement in the community. Some of the students in the ambassador program had started to do work in Newark. These students had started mentoring programs in Newark schools and had a homework help program at the Newark library. This group was still growing but Ms. Olsen asked that if Council knew anyone who may benefit from this, they could email directly at bluehensengage@udel.edu. The group of students had also adopted a park. They would be going to Clark Park to do a clean-up soon.

Mr. Markham thanked Ms. Olsen and the University for her participation in the Parking Subcommittee.

8. 2-B-2. STUDENT BODY REPRESENTATIVE: None

9. 2-C. CITY MANAGER:

08:02

- Stated that the 457 retirement plan amendment to allow active elected officials to participate had been submitted. If Council members are interested, they should let Mr. Coleman know.
- Updated that the employee climate survey was distributed to all employees and recent retirees.
- Tuesday, May 15, 2018 in Council Chambers, the Planning Commission would review and consider the recommendation from the Rental Housing Needs Assessment to make changes to the list of streets

exempt from the student home ordinance. They would also consider allowing all single-family rentals on exempt streets to be occupied by up to 4 unrelated tenants.

- The Memorial Day Parade would take place on Sunday, May 20, 2018. City offices would be closed on Memorial Day, Monday, May 28. There would be a modified refuse schedule that week as a result.
- All referendum town halls had been scheduled and were available for viewing on the City website at newarkde.gov/vote. The next meeting would be May 22, 2018 at 6:30 p.m. at the Newark Senior Center.

10. 2-D. COUNCIL MEMBERS:

09:12

Mr. Hamilton:

- Shared there was a community clean-up in the Madison Drive/College Park area. He said people should put out items on Tuesday night for a Wednesday morning pick up. There would be another pick up on Sunday. There were flyers dropped off at houses in the area regarding the event and what items could and could not be put out.
- Stated that he was in talks with CSX on whether volunteers would be able to help clean up the area around the railroad tracks as this was not City property.
- Hoped to have a group education session for Council. Mr. Hamilton felt that Council struggled with being unfamiliar with land use decisions and the laws surrounding them. He had asked Max Walton, a land use lawyer, for assistance and Mr. Walton had expressed a willingness to help educate both Council and the public. Mr. Hamilton had a list of dates for potential sessions.

Ms. Bensley stated that these dates included June 26, 27 or 28 or July 17, 18 or 19. Mr. Walton had asked Ms. Bensley to get clarification on what exactly Council envisioned this training being. From her discussions, she thought it may be a more compressed version of the UD IPA sessions for planning. Mr. Hamilton agreed that was a good start. Ms. Bensley stated that tonight she was looking for direction from Council that a) there was enough interest from the majority to move forward with setting this up, b) to have the parameters clarified and c) to get direction to reach out to everyone to get this scheduled during one of the six dates Mr. Walton was available. Mr. Hamilton said this was great for him. There was a consensus from Council there was interest in this training. Mr. Markham suggested that Ms. Bensley send an email with those dates so Council members could check their calendars. Mr. Markham also requested a draft agenda.

Ms. Wallace:

- Requested an update on the Aetna fee. She knew there had been issues with this and did not need an answer tonight but asked staff to come forward with an update at a future meeting.
- Wanted clarification about the bridge over the railroad tracks at 896. She asked if this was a “walk your bike” zone. Mr. Coleman said it was not. He stated that years ago, DelDOT had changed it to have bikes yield to pedestrians. The decals were added in error by an employee. They were not in conformance with the intent. Ms. Wallace wished to consider making this a zone where people had to walk their bikes. She had received repeated complaints about this from residents.
- Had received complaints from residents about high grass and weeds at rental properties along Cleveland Avenue, Park Place and other high-concentration rental areas. She knew that Code Enforcement had been busy, but she wanted to point out that residents were noticing and not happy about the grass.

Mr. Markham asked whether changing the bridge to have people walk their bikes would start at the Traffic Committee. Mr. Coleman answered that he needed to speak with DelDOT to ensure that DelDOT would allow the City to make that prohibition. After DelDOT’s answer, this would go to the Traffic Committee.

Mr. Morehead:

- Requested an update from the Acting City Manager regarding 919 Rockmoss Avenue.
 - Recalled that Council had asked staff to start developing a policy or ordinance for developers to go beyond the bare minimum requirements for stormwater in the future. He asked where staff was on that effort.
- Mr. Coleman advised that the goal was to have an item on the next Council agenda regarding 911 Rockmoss. He needed more time to look into the second question.

Mr. Clifton:

- Shared that last Friday night, he went on a ride-along with the Newark Police Department. Mr. Clifton stated that starting at about 11 p.m., the police were very busy. He could not say enough about the great job done by the new officer he had ridden with. Mr. Clifton was impressed with the officer. He stressed that it was a very busy night. Mr. Clifton noted that at times, it took a while for the police to get to a call on a Friday or Saturday night. He had seen why that occurred. Mr. Clifton encouraged everyone

to take the Citizen Police Academy. Mr. Clifton wanted to go on record as being proud of the Newark Police Department. He said that people needed to take the full picture when looking at the police department. He could not say enough good about his personal experience.

Mr. Markham:

- Reminded Council that the next Council meeting was on Tuesday not Monday due to the Memorial Day holiday.

11. 2-F. PUBLIC COMMENT:

19:46

Albert Porach, District 2, stated he was opposed to the Rodney stormwater project. Mr. Porach said that he had written a paper evaluating this project. Mr. Porach offered that anyone could email him for a copy of the paper. Mr. Markham advised that Council had received the email. Mr. Porach asked if anyone had any questions. Mr. Morehead noted this was an agenda item. Mr. Markham felt that they were discussing the money for the referendum. Mr. Porach said this had nothing to do with the agenda item. Mr. Porach felt that there needed to be an open discussion about the issues. He felt there were people going around town perpetrating propaganda about stormwater. Mr. Porach thought that there needed to be an open debate about the facts. Mr. Porach's opinion on the facts was very different from what City officials had given.

Mr. Hamilton appreciated when anyone did work and presented things to Council. He always preferred more information than less information. Mr. Hamilton noted that some of the numbers Mr. Porach had come up with were based on the parcels. Mr. Hamilton said that when he had discussed this with staff, that had not included the streets and other things in the area. He thought staff would be getting back to Mr. Porach soon about those numbers. Mr. Porach said that City staff had published a map that showed their interpretation of the area. He thought the map overstated the facts. He thought it was much larger than the area actually was that was draining to the Rodney site.

Leigh Spencer and Ashton Cleveland, 25 Prospect Avenue, wished to speak together. Ms. Spencer thought she represented a lot of people when she said that the incident with the Newark Police Department, Animal Control and 2 loose dogs the past weekend had been traumatizing. Ms. Spencer believed that with some training on animal handling and k9 behavior, events like these could be avoided at all costs. She proposed that people who were interested could partner with the police department and Council to organize a fun, interactive community event that would help both the police and the public feel more confident about deescalating animal situations without using violence. Ms. Cleveland suggested that the event could include videos about dog behavior, tents with information handouts about signs to recognize when approaching and trying to safely detain a dog and a place for the community to get their pets microchipped in order to reduce the amount of stray and lost animals in the City of Newark. She hoped this would further protect not only the public, but also Newark's police officers and the animals involved. She understood that a police officer's duty was to protect the public at all costs and she believed that together through education and training, they could protect all living beings in the community. Mr. Markham stated that the police were undergoing their own investigation and Council did not comment until that was done. He asked that Ms. Cleveland and Ms. Spencer leave their information with Deputy Chief Mark Farrall. Mr. Markham noted that the Newark Police had always been very open to improving and making changes.

Jim Taylor, 572 Capitol Trail, stated he was present to address some problems he had been having with the water tower. He recalled there had been an incident when the water tower was being worked on and there was a release of lead into the environment. Mr. Taylor was the homeowner of the property next to the water tower. He understood that remediation was already being done due to the release. He was concerned and wondered if there was any post before any work was done to the tower to check the levels within the area around the tower to see if the release was cleaned up a verifiable amount. Mr. Taylor was also concerned about the site leaching through rainwater runoff into the yards. He asked if any type of remediation was going to be done on the site itself and if any blocks were to be put up to prevent water runoff from that site from entering his yard. He knew that when he had moved in two years ago, he had been seeing lead paint chips in the White Clay watershed in front of his house. He asked if anything was done to check the amount of lead in the soil.

Mr. Coleman said baseline sampling had been done on the City's property. The majority of the property was already addressed and regraded when the project was completed along with a portion of Mr. Taylor's property where the staging area was. Mr. Coleman said baseline sampling had not been done off the property. Mr. Coleman would be happy to talk to Mr. Taylor about his concerns. Mr. Coleman said that the portion of the City's property that was not already addressed was going to be addressed as part of the project with the adjacent property owner. Mr. Taylor understood that the lead was being cleaned

up. He asked whether remediation was done within the site and whether it was done enough that he would not have to worry about water runoff in the future from the property. Mr. Markham asked if it was okay if Public Works reached out to Mr. Taylor. Mr. Taylor agreed.

Amy Roe, District 4, stated she was at the meeting to speak again about the lead paint and her disappointment that yet again the City was not addressing the 3 action items that were to be accomplished by the end of last year. These action items were: 1) the report on how the Windy Hills water tower incident occurred, 2) the updates to the Municipal Code and 3) updates to contract language to prevent a situation like this from ever happening again. She felt that while it was very good that one of the properties was finally being cleaned up 2 years after lead paint chips and dust were dispersed over their yard, the latest Freedom of Information Act request showed that the City had not made any effort to address contamination on adjacent yards such as Mr. Taylor's or to identify the full extent of contamination in the community.

Ms. Roe knew from her FOIAs that at least one other property was impacted but it could be more. Ms. Roe noted this meant that there were additional Newark families that had not been informed that there was lead contamination possibly in their yards. She worried that these families could have children or want to plant a vegetable garden but now, because of the City's irresponsible actions, may have irreversible lead poisoning. Ms. Roe pointed out that she had attended every City Council meeting for the past 4 months and it shocked her that this was what it took to get any movement on an urgent health issue like lead poisoning, especially when she saw that the City was entertaining taking action on other issues such as the resolution on fracking. Ms. Roe felt that this resolution would have no impact on the City whatsoever. She felt that Council wanted to develop resolutions on impacts that would affect other states while there were very real environmental and health risks occurring within the borders of Newark that continued to be ignored. Ms. Roe wished to remind Council that Windy Hills water tower was owned by the City of Newark. The sandblasting in 2016 was a City project. She felt that the City was responsible.

Mr. Markham noted that progress had been made on the contracts. Mr. Coleman stated that staff was currently developing a lead-free Newark ordinance and there should be something in the coming weeks regarding that. He stated there was not a contract on the near horizon so that was at a lower priority. Mr. Coleman thought there was likely a year or more before the next contract came up. That was assuming the City decided to use dry abrasive blasting as opposed to removing the tank, which they were considering. Mr. Markham felt that staff probably should not wait on that update but do things while it was fresh in their mind. Mr. Coleman noted it would also be difficult to finalize contract language until the source permit was finalized at the State level. Mr. Markham asked if that was DNREC. Mr. Coleman said it was. They were expecting that to be done in September. September was also when City staff would take the next step for the local ordinance which would cover dry abrasive blasting of water tanks. Mr. Clifton noted that he had been in contact with Mr. Coleman about this issue. Mr. Clifton said that the wheels were turning and this was moving forward. Mr. Clifton also pointed out that the timeline given tonight was what Mr. Coleman had provided all along. Mr. Clifton felt confident that this was going to come to fruition.

Lena Thayer ceded her time to John Morgan. John Morgan, District 1, urged that all members of Council and staff take seriously the concerns expressed by Mr. Porach. He pointed out that Mr. Porach had been a skeptic about the reservoir project. Mr. Porach had been very vociferous and was actually thrown out of a City Council meeting for continuing to be vociferous. Dr. Morgan thought that there was no doubt that the reservoir project turned out to be a lot more complicated and a lot more expensive than anyone on staff or Council anticipated at that time. Dr. Morgan urged Council to take very seriously Mr. Porach's comments. If Mr. Porach's numbers were wrong, Dr. Morgan wanted to see why his numbers were wrong.

Dr. Morgan referred to the comment made by Ms. Wallace. He asked if she was talking about the bridge over the Norfolk Southern tracks. Ms. Wallace said she was. Dr. Morgan shared he had been over that on foot several times and given the fairly steep slope on either side, he felt it was dangerous for anybody to be riding a bike downhill there. It was also very narrow, and he thought that was clearly a serious hazard. He thought that if DelDOT could not see that that should not be a "ride your bike" across at 30 miles an hour, something was seriously wrong. He also wished to comment on bicycle safety. He said that now that the weather was warm, a lot of young people were riding bikes around in a rather reckless manner. He shared that one night he was almost run over by a cyclist coming down a hill on University property and then going diagonally across the intersection at Delaware Avenue and South College Avenue. The guy had been riding without a light at night. Dr. Morgan hoped that the City police would really pay attention to bicyclists riding bikes at night without lights. Dr. Morgan would like the police to pull them over and give them a ticket.

Helga Huntley, District 1, commented that she appreciated Council responding to all the comments being made right away. She enjoyed seeing some immediate resolution or promise to resolution. Ms. Huntley said that on her latest utility bill from the City, there was a note that there was confusion about the stormwater utility charge and that there was an undercharging. Ms. Huntley had called the City and the person at the other end had been very helpful in explaining what happened. The City employee had explained there was confusion amongst City staff about how the stormwater fee was supposed to be implemented. There was confusion as to whether it was supposed to be a flat, monthly fee or if it was supposed to be prorated per day in the billing cycle. After the employee told Ms. Huntley what the rules were, Ms. Huntley understood that it was going to be twelve times the fee for her tier vs what they were implementing which would be a 4% increase over what she would be charged for the whole year. Ms. Huntley wanted to make sure this got addressed and that staff was all on the same page as to how they meant to implement this.

The other item Ms. Huntley wanted to address was related to one of the items up for first reading on the consent agenda. One of the upcoming first readings was about a Comprehensive Development Plan amendment. This particular one was concerned with amending the annexation plan by including two parcels that were not contiguous, at least streetwise. They were contiguous to the backyards. She felt that if Council amended the CDP to that extent, it looked very haphazard. She felt that this was reactionary, and it was destroying what this particular homeowner was requesting them to do. She was not suggesting Council turn this request down but what she was suggesting that they follow the recommendations from the State Office of Planning that was attached to this memo as well as what Council had discussed in its joint meeting with the Planning Commission. She suggested Council take a larger look and see if it made sense for these 2 properties to make it into the plan for annexation. She felt they should also discuss the neighboring properties and the larger idea of what that area should look like.

Mr. Coleman said that the 2 properties were looking to annex for sewer service. Both properties had failing septic. Public Works and Planning had met with the Homeowners Association for all of Covered Bridge Farms last week to talk about the bigger picture; that may be annexing in larger portions and doing a septic elimination project. Another option was not annexing them at all but doing a Charter amendment to be able to provide sewer service outside the City or working out a contract and change with the County to allow them to flow into the City then back to the County. Mr. Coleman said there were some options.

Mr. Morehead noted that Ms. Huntley had said she was expecting 12 times the \$2.95 flat rate. He asked if Ms. Huntley could explain what was happening according to her understanding. Ms. Huntley said that for her particular billing cycle, her bills get billed every 20th of the month. For the 20 days in January, she was billed the \$2.95, which was the monthly rate, so she was not surprised by that. Then for the next cycle, she was billed for 31 days, from January 20 to February 20 and she was billed for 28 days, from February 20 to March 20. The way that billing worked out was that they said \$2.95 was the appropriate rate for 30 days. So, they would divide it by 30, multiply it by 31 or multiply it by 28. Most of the months in the year were 31 days, rather than 30 days. If one multiplied this all out and added the \$2.95 that she paid for the 20 days in January, it turned out to be 4% higher than 12 times \$2.95. Mr. Coleman said he would look into this.

Todd Ruckle, District 2, shared that he had just come from Meredith Chapman's memorial. He said it had been very moving and emotional. Mr. Ruckle wanted to commend the police for protecting the public this weekend. Mr. Ruckle was not sure what had happened before he arrived. Mr. Markham advised there was not a major discussion thought there had been a suggestion of some things that could be done to lighten things up. Mr. Ruckle said the main point he wanted to make was that it was a crime for dogs to be loose. The owners of the dogs were responsible. Mr. Ruckle felt there was no difference between a dog and a car. Mr. Ruckle stated he and his wife were animal advocates and had large dogs. He stressed it was the owner's responsibility to maintain and control their dogs at all time. Mr. Ruckle felt that when it took 12 officers to try to round up a dog, that put the public risk. He felt the officers did their job and did a great job at protecting the public. He thanked the police. Mr. Markham noted that for anyone who did not know, Mr. Ruckle's daughter was attacked by a dog so this was a painful thing. He thanked Mr. Ruckle for attending Ms. Chapman's memorial.

12. 3. APPROVAL OF CONSENT AGENDA:

- A.** Approval of Council Organizational Meeting Minutes – April 19, 2018
- B.** Approval of Council Minutes – April 23, 2018
- C.** Receipt of Planning Commission Parking Subcommittee Minutes – April 11, 2018
- D.** Receipt of Planning Commission Minutes – April 3, 2018
- E.** ***First Reading – Bill 18-11 – An Ordinance Amending the Comprehensive Development Plan by Amending the Annexation Plan to Add 3 and 5 Bridlebrook Lane – Second Reading – June 11, 2018***

- F. **First Reading – Bill 18-12** – An Ordinance Annexing and Zoning to RH (Single Family Residential Detached) 2.22 Acres Located at 3 and 5 Bridlebrook Lane – **Second Reading – June 11, 2018**

46:15

Ms. Bensley read the consent agenda into the record.

MOTION BY MR. CLIFTON, SECONDED BY MR. LAWHORN: TO APPROVE THE CONSENT AGENDA AS RECEIVED.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

13. 4. **ITEMS NOT FINISHED AT PREVIOUS MEETING:** None
14. 5. **APPOINTMENT TO BOARDS, COMMITTEES AND COMMISSIONS:** None
15. 6. **SPECIAL DEPARTMENTAL REPORTS:**
A. **General Assembly Update and Associated Requests for Council Direction – Lobbyist (See 6-B)**

47:23

Mr. Markham advised 6A and 6B would be discussed simultaneously.

16. 6-B. **RESOLUTION NO. 18 ____ : A RESOLUTION IN SUPPORT OF THE RESTORATION OF FUNDS FOR THE STATE PARAMEDIC REIMBURSEMENT TO ALL COUNTIES (SEE 6-A)**

Ms. Bensley read 6B into the record.

Mr. Markham requested that Mr. Armitage lay out specifically what items he wanted direction on. Mr. Armitage said that in the memo he sent yesterday, he did highlight things that he wanted get some guidance from Council on. Mr. Armitage said he would go through some of the bills he had been watching and how some of them may be starting to resolve themselves now as they neared the end of the session with 13 days left. Regarding House Bill 321, the Evergreen contracts legislation, the sponsors said that it would remain in committee and would not have any impact on the City. There were probably some contracts the City had in place in Parks and Recreation that would have been impacted by the legislation. House Bill 360 was the sexual harassment training bill from the State. He was still waiting for an amendment from the sponsor to try to more clearly define who employees will be, a less prescriptive method, how many hours places would have to train somebody and exactly what places would need it to include. There were many companies located in Delaware that had a national reach. They had some very strong objections to being told they had to do it this way even though they had training in place for years. That probably would impact thousands of employees that had been vetted by their own attorneys. Mr. Armitage thought they would see an amendment that changed things but still mandated the sexual harassment training.

House Bill 377, the county hotel taxing authority bill, had passed the House and had moved onto the Senate. It passed with very few questions from the members. Most of the people that voted no were in the southern part of the state. House Bill 395, municipal hotel taxing authority, had been passed by Council in a resolution. Ms. Bensley added that letters were sent to the members of the House Administration Committee and local legislature, but it did not go to everyone in the House. Mr. Armitage said that he and staff had spoken to leadership in other towns around the state that may be interested in doing this. He had spoken to legislators that represented some of those municipalities and was trying to generate similar resolutions out of those same jurisdictions. Mr. Armitage had spoken to the House Speaker and House Majority Leader about the bill being heard the first week they were back in session. They had agreed that on June 6, they would have that bill in their House Administration Committee.

House Bill 403, which would eliminate the requirement for absentee ballots to be notarized, had been introduced. He suspected that this maybe on the same committee hearing the same day. House Bill 416 was introduced to try to help the Fairfield Crest Swim Club. He did not think that would have an impact in Newark. Mr. Del Grande advised this was County and City taxes. Mr. Markham asked if it would have an effect on other swim clubs. Mr. Del Grande said there were about 4 pools that would be impacted, and it would be about \$4000 per year that the City would lose as a result of the bill. Mr. Armitage said that he needed Council to give him direction as to whether to support the bill or not. Mr. Coleman asked whether

it was correct that if they changed their bylaws, they could get an exemption under current law. Mr. Del Grande said that had been the history of the issue. He said that the pools had changed their bylaws to state that if they were ever to liquidate, the ownership would go back to a non-profit entity i.e. City of Newark. For that reason, they would qualify as being a non-profit entity and tax exempt. Due to the costs associated with that, people would rather go back to the General Assembly to change the law. Mr. Coleman asked if it was correct that they had tried to get around that but not had enough votes. Mr. Del Grande answered that they needed a majority of owners to vote in the affirmative and that the recordation expenses and attorney's fees would add up. Mr. Morehead asked what the 4 pools affected were. Mr. Del Grande said it was Fairfield, Oakland, Persimmon and Nottingham. Mr. Markham would like to make a deal and let the City Parks and Recreation Department have access to the pools. He thought this was a better trade-off. Mr. Armitage pointed out this was countywide.

Ms. Wallace asked why pools were different from other non-profits in the City. Mr. Del Grande said that they generally fell back to the County's Department of Assessment. They made the determination of whether it was tax exempt or not. Ms. Wallace asked if there were other non-profits in the City that were not tax exempt. Mr. Hamilton noted it came down to the 501C3 versus 501C4. Ms. Wallace asked if they were 501C4. Mr. Del Grande said that 501C4 would be a maintenance corporation or fire department. 501C3 were generally not for profit; they were not quasi government type vendees. They went through the application process with the County Assessment and proved who they were, then it was changed on the books and the City was notified as it occurred. When the next tax billing went out, the company no longer received a tax bills from the City. It did not exempt them from prior taxes that were held against them. Mr. Coleman asked whether the Newark Country Club could fall under this exemption. Mr. Armitage did not know the answer to that. He was not sure if they were a non-profit. Mr. Coleman would hate for the pool to make the whole property exempt. Mr. Del Grande believed that if the membership was held on a private basis, they were not eligible for non-profit status. Mr. Armitage said that he could research this as it would not come back up until they were back in session in June. There was consensus that Mr. Armitage would come back with more information on this on May 29.

Mr. Armitage said there was a new pilot bill. It was a mirror of what had happened in the 128th session. It was a House Bill that went into Appropriations Committee and never left committee. Mr. Armitage was happy that it was a Senate Bill this time and it may come out of committee. He was not sure about that yet. It only had 3 sponsors. Mr. Armitage had direction from Council to support pilot.

Senate Bill 204 was legislation that created a temporary framework for the Department of Natural Resources to deal with stormwater. In the past, their stormwater regulations were struck down by Kent County Superior Court. They had been struggling to put things back in place. This was a stop gap measure that would allow them to continue to manage the stormwater issues happening in development and redevelopment. Mr. Armitage did not think the City would need to take a position unless in the interim staff came back with some real concerns. There had been a rumor that something was going to happen around the renewable energy portfolio. The bill was never introduced. A group from DEMEC was there, as well as Mr. Armitage and a number of other groups that provided energy throughout the state. In the initial rumors, he had heard that it would require by 2032 that 50% of the energy being sold in the state would be from renewable sources. There was no way that the State of Delaware would be able to meet that threshold. Thursday, DEMEC met with Senator McDowell and had a long conversation they felt was very useful. The bill would probably be introduced this year. Senator McDowell wanted to generate some discussion about what kind of goals could be set for the State of Delaware in the long term for renewable energy. Mr. Armitage noted it would have had a pretty dramatic impact on rate payers in Newark if it had moved forward with that goal of 2032.

The Bond Committee began meeting this morning. Mr. Armitage had gone and listened to the Transportation Committee. They were happy so far and questions were all softballs from agencies. Carl Luft, the executive director of the League of Local Governments, had read a letter into the record asking for an increase in municipal street aid funds. It would be from \$5 million to \$6 million, which was the level in 2009. It had been reduced since the budget crisis back then. Mr. Luft was hoping for restoration of that because they did have some money this year. Mr. Armitage would lobby on behalf of that if it was okay with Council. There was consensus that was okay.

Mr. Armitage recalled that in 2014, there was \$200,000 allocated to the police for a new multijurisdictional police firing range and driving course for Newark Castle County. At some point, the plans changed. This range was on River Road near Ommelanden range and the National Guard range. The County built across from those ranges, which Mr. Armitage thought cannibalized the land that the State had given them to be able to use for this driving course. There was also a \$200,000 allocation in last year's bond bill. They allowed the allocation to change to be able to buy equipment that could be transferred into a new range. Mr. Armitage guessed there were discussions going on among all these jurisdictions to

try and build a new range because it was still not the best range in the world. There was \$43,000 dollars left of the \$200,000. Mr. Armitage asked if there was any more direction. Mr. Markham asked if the \$43,000 was allocated for the shooting range. Mr. Armitage said that was correct. He thought they originally wanted to create a skid pad, but they had reallocated the use of the money to allow for buying equipment that was transferrable. Mr. Markham was trying to figure out what options Mr. Armitage was giving them. Mr. Coleman did not think there was a downside to it. The City currently had trouble getting time on the range. Any additional range space would be a good thing, especially if someone else was paying for it. Mr. Armitage knew that there was discussion with his other client and the State to do something with Owen's Station in Sussex County. That range was currently only for shotguns and the State wanted to expand that to be able to use rifles and pistols there. They were seeking to secure a grant from the NRA to be able to do that and were hoping for as much as \$50,000. Mr. Armitage thought there was still enough open land in New Castle County to build another range. There were no comments from Council. Mr. Armitage said he would continue to pay attention to those particular items in the bond bill.

Mr. Armitage shared that next Monday, DEFAC would meet. The schedule had changed so that they would only meet Tuesday, Wednesday and Thursday for the following two weeks. They would not get into the grant and aide where the City really wanted some of the money to come back. That would be in pilot, the restoration of Fire and EMS funding as well as uni-city funding \$143,000. That had been steady for so many years that Mr. Armitage did not think it was in jeopardy in any way. He had sent around today to staff 2 new bills that had been introduced. One was 134 pages and the other was 143. The State was getting very serious about revamping all of Title 11 which is the criminal code. This had not been visited by the State since 1973. Mr. Armitage stressed this was a massive document and he apologized to staff, but he asked them to read through that and see if there were trickle down impacts in Newark or new ordinances as the State changed some of their crimes and their penalties.

Mr. Armitage shared that one of his neighbors stopped him and asked about the Main Street project. Mr. Armitage suggested that the City put up on its website some information about what was going happen to Main Street as it was such a massive project. He recalled there was a nice presentation by DelDOT and people would appreciate seeing that if possible. Mr. Armitage said that when he came back on the 29th, he would focus on the bills on the table and highlight them in advance of the meeting. Mr. Markham stated that a point on his radar was the reservoir addendum. This was not a top priority, but he wanted to moderate it. The Pilot was much higher on his list. Mr. Armitage said he had a conversation with Senator Sharp and was waiting back to hear from Senator Amick regarding this epilogue language. Ms. Wallace commented that she appreciated the new format where Council was getting updates and Mr. Armitage highlighted things he needed.

Mr. Clifton noted he had spoken to the management at the Police Department about the River Road site. He asked whether there was not enough room there to put the range there. Mr. Armitage thought the problem was the proximity to the river. A stray round could go out into the river. Mr. Armitage said that there was a large berm behind the National Guard range and the police range. However, at some point in time, a stray round ran over that berm. Since then, in order to use the range, they needed someone out in the water to make sure people stayed away from where a round could possibly land. Mr. Clifton noted that there were a lot of changes planned. He thought there would be a lot of open area there. Mr. Armitage said he would speak with the police department. Mr. Clifton thought it made sense that if they were building a new range to do it there.

Mr. Markham asked if Mr. Armitage had any updates on the resolution for the paramedic reimbursement program. Mr. Armitage had heard from Joint Finance Committee that this was one of the things that would be in their priority list to look at. They wanted to look at senior services and fire and EMS. He was not sure what that would result in, but he thought the resolution was helpful. Mr. Armitage was not sure whether any other towns in the county would be doing that. Mr. Markham asked if they would be working with the County. He felt they had been ignoring each other for too long. Mr. Armitage said they would be. He asked whether Council wanted him to reach out to other small towns. Mr. Markham's opinion was that the County had a better reach than Newark.

Mr. Clifton asked for clarification that this resolution was talking about the county systems not individual fire houses. Mr. Markham said that this was asking the State to restore funding to the County for paramedic services. Mr. Clifton was in support of that. He felt they still needed to be aware of the fact that Aetna ran 8,000 ambulance runs per year and got only \$78 per run when it really cost between \$450-500 to make the run. Mr. Clifton noted that the number of Medicaid runs were now over 50% of that. Reimbursement numbers were going down. Mr. Clifton thought that they needed to do everything they could to support the fire department at the local level. Mr. Armitage said this would not be specific to Aetna, it would be across all the fire companies. The 20% cut had been across all entities that were funded through grant and aid. Mr. Markham noted Council had given direction to support this restoration for

EMS. Mr. Clifton said this worked but he thought at some point, Council needed to be more specific for Aetna. The possible net cost down the road scared him. Mr. Markham asked if there was something Council could do for the fire department. Mr. Clifton appreciated that and felt it would be nice for Council to voice their support addressed to the General Assembly. Mr. Clifton asked if there could be a resolution for the next meeting.

The Chair opened the floor to public comment.

John Morgan, District 1, recalled that a couple years ago, when there was controversy over the rezoning of the Newark Country Club property, he had found online the Forms 990, which the country club filed with the IRS each year. Dr. Morgan was pretty sure this did indicate that it was a non-profit organization. He did not recall whether it was a 501(c)(3) or a 501(c)(4), but that information should be readily available online through the website guidestar.org.

Jim Taylor, 572 Capitol Trail, thanked all the Newark police officers. He had needed to call twice for people breaking and entering into the area behind his home. The police had arrived quickly. Mr. Markham interjected that they were outside the general public comment. He stated this was a time to comment on the lobbyist report and this resolution. Mr. Taylor wanted to say how much he appreciated what Aetna had done for him. They had saved his fiancé's life. As a resident, Mr. Taylor urged Council to think about the fire companies and the people that supported them.

MOTION BY MS. WALLACE, SECONDED BY MR. CLIFTON: TO APPROVE THE RESOLUTION IN SUPPORT OF THE RESTORATION OF FUNDS FOR THE STATE PARAMEDIC REIMBURSEMENT FOR ALL COUNTIES.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

(RESOLUTION NO. 18-I)

17. 6-C. RESOLUTION NO. 18 ____ : ESTABLISHING A BOND AND CERTIFICATE OF INDEBTEDNESS REFERENDUM

01:19:25

Ms. Bensley read the resolution into the record.

Mr. Markham asked if this was the same presentation that had been shown at town halls. Mr. Coleman said it was. Mr. Coleman advised he would go over some of the more frequently asked questions they had received about the City's infrastructure and the referendum process, then provide a review of the projects that would be included in the referendum. After that, he would move to a financial discussion on why debt made sense, review the available funding sources and current and proposed debt service obligations. They would finish up with a question and answer session. Mr. Coleman stated that he would use the word "capital" in reference to spending and budgeting. Mr. Coleman showed the definition of capital per the charter, which was fairly complex and very specific. He showed the way it related to the real world. One of these ways was through infrastructure. The large majority of capital spending was going to be on an item like this mainly because they were very expensive, there were a lot of them, and they needed to be maintained or replaced periodically. Mr. Markham noted that a lot of people had already seen this presentation. He directed the Acting City Manager to move quickly unless there were questions or requests to slow down.

Mr. Coleman said he would go through each of the utilities and give a quick overview. Newark had the most water infrastructure by a large margin and most of these items were quite expensive. For example, it cost around \$1.2 million to replace 1 mile of small diameter water main. The total replacement value of the water infrastructure was estimated to be around \$200 million to replace all of it today. That was almost \$6,000 of infrastructure for every resident in Newark just for water. Newark also had a lot of sewer infrastructure, but it was a little easier and less expensive to rehabilitate because you did not have to dig up the street. In many cases, it could be done relatively quickly while the line was still in service. The value of sewer systems was estimated to be around \$67 million. Stormwater was around \$100 million. Stormwater was somewhat unique because there were different pipe materials with dramatically different life expectancies. They were really only concerned about one type at the moment which was corrugated metal pipe, which lasted around 35 to 40 years on average. There was about 5 miles of that. This type of pipe was of most concern because almost all of it was approaching or beyond its expected

life. The rest of the pipe was reinforced concrete pipe or high-density polyethylene, which lasted around 100 years on average. In addition to pipes, there were 65 City-maintained stormwater ponds and facilities mostly in residential neighborhoods.

Electric infrastructure was made up of sub-stations, lines, transformers and the McKees Solar Facility off Cleveland Avenue. He estimated the value of the electric infrastructure to be \$50 million or now. This was the least accurate estimate at this point, so it was relatively conservative. In addition to traditional utilities, Newark also had parking infrastructure consisting of downtown parking lots and meters. The parking fund was treated the same as a traditional enterprise utility in Newark with revenues being kept separate from the general fund, aside from a margin transfer, which was essentially the City's general fund profit margin.

Lastly, there was the general fund infrastructure, which included City-maintained streets, city hall, police station, parks and other City-maintained facilities. This infrastructure was supported by taxes, fees and margin transfers from the city's utilities. In total, he estimated the current replacement value of the infrastructure and capital assets at around half a billion dollars, which was a huge number for a city of just 33,000 people. It meant there was over \$15,000 worth of infrastructure for every resident in the city. The vast majority of it was underground, or at least out of sight and out of mind. So, it was easily forgotten about until someone hit a pot hole with car, the toilet would not flush or the lights went out.

Mr. Coleman noted that while it was helpful to know how much of everything they had, it was better to know what condition it was in, so they could plan. Mr. Coleman would go over the condition of each type of infrastructure starting with water. He would first focus on mains because they made up the majority of water's assets. Getting good condition assessment information on water mains was difficult because they were under pressure and needed to remain in service during assessment. They had begun piloting technologies that would indirectly measure the remaining life, but widespread implementation was still in development. In the meantime, they used a combination of main break history, water quality complaints, pipe age, pipe material and industry guidelines to estimate the remaining service life and prioritize replacement. Many of the water mains were going to hit or exceed their expected lifespans and expire in the near future. It was important to point out that expiring did not mean the pipe will stop working.

Mr. Coleman showed what he referred to as the bathtub diagram and it showed the general failure pattern for pipes. There was often a quick round of failures, as any manufacturing defects failed early, followed by a long constant failure rate phase at the end of the pipe's life, then there was the wear out phase and the break rate increased. This was most often due to corrosion. Expected life varied depending on material and manufacturing methodology. The longer the life of the material, the longer the constant failure rate phase. Generally, the older the main, the longer the life, until very recently when the City started using advanced laying practices. All the mains like Main Street were very thick with an expected life of 100 to 120 years. Mains installed in the middle of the 20th century had a much shorter life, sometimes as low as 55 years depending on conditions. Water mains since 2016 should have a life of 100 years or more, because they were now using an advanced polyethylene encasement to wrap the outside of the pipe and prevent any corrosion.

Mr. Coleman showed a slide that got into what he had mentioned earlier about how pipe expired. The green line was the cost to operate the existing pipe. The cost increased as the pipe got older and began to fail more frequently. At a certain point, the failure rate got high enough that the cost to make repairs, coupled with the inconvenience of customers, got to the point that it was cheaper to replace it. The breaking age would depend on the pipe material and manufacturing methodology, but also heavily on soil conditions. They were working right now to develop an accurate estimate for all of the 140 miles of pipe, but that would take time. For the sake of this presentation, Mr. Coleman would show information using recommendations from the American Water Works Association, or AWWA, which was to assume a 7-year life. He felt that, based on which areas of the city were experiencing advanced failure rates, this was generally accurate for Newark and at least accurate enough to give an idea of the average condition.

Mr. Coleman showed a map of the water system with the mains color-coded based on the expected remaining service life. All the pipes in red had already expired and the pipes in orange, yellow, and light blue were set to expire in the next 15 years. There were some mains that were listed as expired, like Main Street, that likely did have service life left, despite being over 110 years old. There were also some mains shown with remaining life that were likely already in the expired category. Mr. Coleman suggested trying not to focus on the specific locations but more on the magnitude of each category. Today, only around 15 miles of the mains were expired, which equaled about 12% of the system. Looking at the pipes in the distribution system, 15 years from now, that number was going to be 74 miles, absent a continued or increased effort to replace mains. That was 57% of the system. It would be 59 miles, even if

they hit the current target of replacing one mile every year. That was 42% of the system. This did not account for all water pipes that carried untreated water and were in a similar condition. Based on a recent study by Utah State University, the nationwide average was 16% expired. Newark was currently doing better than average, but that was going to change considerably in the coming years. Nationally, the percentage of expired pipes had doubled in 2012 from 8% to 16%. The break rate of cast iron pipe, which made up much of Newark's pipe infrastructure, had increased 46% over that same time. This was a problem that was accelerating.

This meant that Newark should plan for more water main breaks and interruptions in water service. Mr. Coleman showed how they had charted the number of main breaks for every year going back to 1977. There was a definite trend, which was going to accelerate as a higher percentage of the mains moved into the expired category. Each one of these breaks was generally accompanied by a service outage and occasionally by a boil water order which could last between 24 and 48 hours. These outages had a negative impact on the quality of life and on a business's revenue. The pipes did not stop working, they just stopped working well.

Mr. Coleman advised that starting in 2011, the City began increasing water rates from the artificially low rate that was in place before. This allowed for a capital project initiative, where they really started ramping up capital maintenance efforts. While water mains made up the majority of the water infrastructure, other facilities had a much shorter life, so they punched above their rate from a budget perspective. Staff had been busy over the last 7 years completing over \$17 million in water fund capital projects. There were also 2 treatment plant projects that were currently underway or expected to be completed in the next 12 months. The first was replacing the existing pH system in South Wellfield and the second was to convert to chlorine gas and a bulk liquid system for disinfection at the surface water plant. This was a much safer material and would give consistency across the plants.

On the sewer side, the City had been working to inspect and develop a prioritization for rehab work. So far, they had inspected around 15% of the system and had identified around \$4 million of high-priority repairs. They had begun making many of the repairs during 2017 and had another project underway currently. Since 2011, the City had spent nearly \$4 million dollars on sewer capital projects and had rebuilt all of the sewer pump stations to modern standards.

On the stormwater side, they had been focused on corrugated metal pipe, which had a much shorter life than concrete and had been failing all over the city. Starting in 2016, they had completed a city-wide condition assessment of all the known corrugated metal pipe and prioritized repairs. In total, they had identified \$3.4 million in repairs that needed to be completed in the next 10 years. Council had authorized creation of a stormwater utility, which became effective on January 1st of this year. Because of that, there was a stable funding source, which had been designed to provide an adequate amount of money to meet operating expenses and complete the repairs that had been identified for the next 5 years. The current rate would not cover the cost of the proposed Rodney project, however, which would result in the need to increase the medium residential stormwater bill by a little over \$1 per month.

For the road network, there was a full pavement program where staff completed an annual inspection of all of the roads, rated them, and then had those ratings run through an authorization program in an effort to develop an optimal project. In order to keep city-maintained roadways at their current city-wide average condition, the City would need to spend around \$1.75 million per year, every year. That was a number the City had only been able to achieve one time since 2011. Mr. Coleman advised the City had around \$1.5 million in parks capital maintenance scheduled for the next five years.

A question to consider was how the City got itself in this position. Using cash limited the City's ability to tackle large projects because they crowded out smaller less sexy replacement projects and preventative maintenance. It was a lot more exciting to have a new ribbon cutting than to replace an underground pipe that had generally worked well for an entire lifetime. The water and sewer rates were also entirely consumption based, so they fluctuated considerably with the weather. This resulted in a less predictable revenue stream. This was one item that staff would be working with Council to address moving through the rest of the year. In addition to that, nearly 50% of Newark's land area was tax exempt if you included all the street area. That put the City in a deep hole when it came to paying for general fund services like police. They filled this by transferring around 20% of utility revenue from everything but stormwater into the general fund. This was money that could have been used for infrastructure maintenance. In addition to that, the City was entering the first round of the replacement era.

Historically the City had not had to pay for most of the infrastructure it had because it was paid for by developers or the federal government through grants. The City was now purchasing the first replacement cycle for most of its assets, which could really be thought of as liabilities because they had

to maintain them. Even the mains installed by or for the city were originally assessed directly against the adjoining property owner, same with the streets and sewer mains. Because of this, the rate and tax structure had never had to pay for most of this infrastructure and the revenue demands were going to increase significantly over the next 20 years. Mr. Coleman shared he had heard a term used recently which was infrastructure echo. He thought this was a pretty good descriptor for what Newark was seeing. They were seeing the first echo of building boom after World War II. In addition to that a large majority of Newark had been developed in an unsustainable development pattern with was the suburban single-family homes.

If you lived in a single-family detached home, Mr. Coleman could almost guarantee you were not paying enough to cover the infrastructure necessary to support your house based on the City's current rate structure and tax levels. For example, if you lived in a house with a 100-foot-wide lot, your taxes needed to support, in addition to police and other general fund expenses, paving and maintenance of at least 50 feet of the street frontage. Same went for water, sewer and electric infrastructure. Using current costs for water main replacement as an example, 50 feet of water main cost over \$11,000 to replace. Assuming 10% of your water bill went toward infrastructure, it would take over 300 years for you to pay off your small section of main, let alone the other infrastructure like water treatment plants. Fortunately, the locations like downtown and industrial users were able to offset a lot of the shortcomings of neighborhood areas. Where a house may take over 300 years to pay off their section of the main, a building like 58 East Main Street would do it in 2 or 3. There was a very similar pattern for taxes. Mr. Coleman showed a map that was still in development that showed whether a property was paying enough in taxes to pay for all the general fund services it received. While it was not complete yet, the general idea and scope were not likely be significantly different once it was complete.

Based on preliminary estimates, all of the parcels in red on the map did not provide enough in tax revenue to cover the cost of providing them with services. Some may come closer than others, but they still did not cover the cost. Parcels that had a positive value are shown in yellow, blue, and green and those were the properties that made up the difference to balance the budget. In general, single-family detached housing was negative, which meant if Council were to approve a new single-family neighborhood today, it would make Newark poorer as a community and they would be taking on more liabilities than revenues. High-density developments like townhomes and downtown mixed-use projects would help reduce the need for future tax increases because they paid more than their fair share. Mr. Coleman was not saying the red areas were bad, but the fact of the matter was they had the red areas and had to deal with it and to know it was a problem when approving projects moving forward.

Mr. Coleman knew this presentation had been a lot of doom and gloom, but it was not all bad news and it definitely was not unique to Newark. Cities all across the nation were looking at the same problem whether they knew it yet or not. Illinois, for example, had just determined they needed \$21 billion per year for infrastructure when historically they had only spent closer to 3. When you considered their entire budget was just over \$38 billion, you could see how much of a problem they were facing. Fortunately for Newark, Mr. Coleman thought they were in a much better place than a lot of other cities for several reasons. First, there appeared to be a role in Council to tackle the problem which was evidenced by the fact that they were talking about taking on debt to get in front of it tonight. Newark was also a relatively compact city compared to its peers. Dover, for example, had 2 ½ times Newark's land area, yet only 10% more people. Newark was in the fortunate position of having the STAR Campus, which would be bringing all new revenue to the City soon. Having a private project that was completed and installed would bring new tax and utility revenue that the City had not had before. Even UD-specific projects would bring in a lot of new utility revenue. The electric demand was expected to be more than half of the current demand for the entire city. That was new sales that the City had never had before because it was previously Delmarva's service territory. The sales could be used to reduce or keep down electric rates for all of Newark.

The University was also planning to add around 4000 graduate students in the next 5 years and potentially up to 1500 undergraduates over the next 10 years. Graduate students were year-round young professional residents who lived and worked in Newark. If the City could provide them downtown housing at a density that was productive, it could get all the benefits without most of the problems like traffic and public school impacts that generally accompanied new development. For every 1% added to the tax base, that was 1% of tax revenue that could go toward supporting infrastructure and did not need to come out of residents' pockets. Mr. Coleman said that Mr. Filasky would go over the projects that were recommended for inclusion in the referendum being discussed this evening pending council approval. Mr. Coleman pointed out that all the projects they were about to discuss were in the approved 5-year capital budget, which could be found on Budget Central on the City's website.

Mr. Filasky stated he would go over a couple of projects that they would be working on as part of the referendum. A lot of these projects were ongoing projects or programs which Council had heard about

in previous years. Others were overdue rehabilitation or upgrades to facilities that provided water and other services throughout the city. Mr. Filasky would give a high-level overview, but he noted people were welcome to reach out after this presentation or by email if anyone had additional questions. There was also an email dedicated to asking questions of the Newark staff which was asknewark@newark.de.us.

Mr. Filasky began by talking about the Laird Tract Well Field restoration. He noted they had heard about the reservoir a little earlier today. He explained the City had about four wells that were furloughed at the time that they built the Newark reservoir and brought it online. Those four wells had been furloughed essentially because of taste and odor issues. Taste and odor issues were easily treatable, but at the time they did not have the treatment. The reservoir gave more drought resiliency, so bringing those wells back online would actually increase the reservoir's dry resiliency and potentially even double it. The best things about these wells was they were all within the White Clay Creek Valley which was for the most part protected by the federal government as a wild and scenic river. The second larger project was the South Well Field water treatment plant upgrades. Mr. Filasky stated they had been listed in the national priorities list for the water underneath of the South Well Field, which was the superfund program through the EPA. That assisted with funding in trying to clean up contamination and find the source of contamination. The South Well Field water treatment plant was upgraded roughly 15 years ago in order to treat the contamination under the ground and the system. While still functional, it was nearing the end of its useful life. They were planning the upgrades, so they could increase the capacity there and bring on some wells that had also been furloughed since they brought this treatment plan online. The water main replacement was pretty straight forward. There were old pipes that needed to be replaced and the City was looking at some other methods to replace them rather than just digging up the road and replacing them. They were not quite there yet with the way that they brought in the liners and lined the pipes. In the meantime, they would continue to replace pipes which was currently the most effective way to get another 100 years of life.

Mr. Filasky noted they had spoken a little bit about water tank rehabilitation earlier. If all went well, there would be a new method for simply taking the tanks offline and replacing the tank rather than sandblasting and painting. Sanitary sewer study repair was essentially one project with many different parts. The first step was to identify the areas where they knew the pipe material and critical nature of the lines and perform inspections using closed circuit television or CCTV. The CCTV inspections were then reviewed and the defects in the pipes prioritized in a report. This report was utilized to group the projects that were identified for singular rehab methods. Sewer lines were different from water lines as they were typically deeper and rehabilitation method was usually lining rather than digging and replacing. In the past few years, staff had completed close to \$1 million on this particular project in both inspections and actual repairs. Most notably they had been about \$300,000 worth of repairs ahead of the larger Main Street rehabilitation project that was being contemplated by DelDOT to start in late 2018. They did not want to have to dig up a brand-new road.

One of the bigger projects as part of this program was a Rodney stormwater pond. Mr. Filasky hoped people had heard or seen the proposal for purchasing the former Rodney Dorms from the University of Delaware and demolishing them to make way for a stormwater management pond with park amenities. Mr. Filasky stressed staff believed this was a once in a lifetime opportunity for the City to acquire a piece of land well situated to help achieve stormwater quality and quantity improvements. The parcel sat at the top of a large drainage area where little to no stormwater controls existed. The pond would address both of these important issues as well as serve as a showcase for the City's educational efforts to show residents and visitors how they could contribute to keeping stormwater, and ultimately the drinking water for roughly 4000 Delaware residents, clean and safe. The Parks and Recreation Department had brought these numbers out that roughly 6000 residents lived or resided within a 15-minute walk of this park and roughly 20,000 residents lived within a 10-minute bike ride. He believed this would be a regional park and that it would have the lasting benefits of not only parkland but the stormwater controls that it provided for the downstream system.

Mr. Filasky said these were a couple of projects that they intended to include in the proposed debt financing. These were projects that were necessary for the operation of the City, yet always seemed to get a lower priority than utilities and other projects. This was kind of a catchall for projects that had been pushed and pushed, and finally it was to point where they needed to get the projects done or the level of service could be reduced. Mr. Markham requested that Mr. Filasky move on and not list every project.

Mr. Del Grande stated the City had used cash to fund the majority of its capital needs. Debt financing accomplished 2 main goals. One was that it fairly allocated the cost of a project over its useful life and allowed everyone to pay their fair share of the cost of the project over the period the asset was in use. The other was that a long-term debt had a minimal impact on the annual budget thereby keeping

the City's annual revenue requirements as low as possible. This translates directly into lower utility and tax rates, and fees that the City must charge for services it provided.

There were 3 types of loans that had been talked about: state revolving loan, bond financing and a bank loan. The state revolving loan was the best option for the City's projects, ultimately due to the fact that it was a competitive base loan that came from the State and it was also funded by the federal government. Because it was funded by the federal government, there were a lot of grant opportunities to go along with this money. Ultimately, since they were approved for up to 9 million dollars for Rodney, the debt that they paid back with interest over the 20-year period for the Rodney project and any other state revolving loan project was eligible for grants over that period of 20 years. All the interest that they were paying back, the City could ultimately get back in grants over the time of the payback period. Mr. Del Grande said that the City had letters of intent in for all state revolving loan projects with only Rodney being the approved one at this point.

If they were not to receive approval on state revolving loans for all the projects, the backup source of funding would be bond financing. With bond financing came a few more expenses and the interest rate tended to be a little bit higher than the state revolving loan and the City would also have to go through the reaffirmation process for its rating with FitchRatings and Standard and Poor's. When the City did bond authorization in 2011, it had cost about \$110,000 for the reservoir.

Bank loans were the last resort if everything went according to plan. There was a minimum amount of money the City would have to borrow that would be bond eligible. If it got to the point where it was only \$3 million, it may be actually beneficial for the City to go for a standard bank loan to avoid all fees that were incurred with the bond market. Mr. Del Grande showed a slide that reflected the debt the City had today. It was around \$2.7 million with the majority of the debt coming off in 2022. Starting in 2023 through 2028, the majority was the remaining debt for the smart meters. Mr. Del Grande displayed a slide that showed the cash flow the City would need for the state revolving loan projects. Of the \$23.7 million, \$2.1 million would be used in 2018. It would ramp up due to Rodney, stayed there in 2020 and tailed back down in 2021 only to up a little bit in 2022 due to the timing of the Laird Tract project coming on board. Mr. Del Grande showed the project list for the bonds also shown with the cash needs total of \$3 million. Mr. Del Grande noted the one good thing with these projects was that mostly all would be interest only payments during the project construction period and then full debt service payments would kick in once the projects were complete.

Based on the timing that staff was anticipating on cash and using debt services model, Mr. Del Grande showed a slide of what the City's expected debt service was going to look like over the next 20 years or so. The green box was the existing debt. Adding on the state revolving loan and Rodney and the new bond, the \$2.7 million tier went up a little bit in 2022, fell off in 2023 and then levelled out a little bit in the out years. These were all estimates, and this was just based on assumptions that they were seeing as of today, which could change in every month. The goal was to try to get that peak in 2022 down into 2023 so that it levelled out a little bit. Ultimately, by keeping debt service under \$3 million a year, it helped the City with its budgetary obligations and it did not come as much of a constraint on the budget year every year.

Mr. Del Grande showed a slide that reflected what the debt service would like if the City were to pay cash for everything. Pay-as-you-go was the standard way the City had been handling capital projects over the years. The City needed almost \$13 million in 2019 to cover the cash needed to fund all of the capital projects. Ultimately, what they were doing was charging those who lived in Newark 2018 through 2021 for the capital projects that would have useful lives over decades, not just the 2 or 3 years that residents would be paying for them. Mr. Del Grande showed what the budget impact would be on rates. The top box was a 5-year analysis if the City were to cash finance. The top box was 2019 through 2022 and showed a total of about a 12.7% increase in 2019, 2% in 2020, a reduction of 7.2% in 2021, and a reduction of 6.2% in 2022. Mr. Del Grande noted it did not seem too bad but there were significant changes year every year in water, sewer stormwater and electric rates. At the bottom of the debt service model was a forecast into the understandable, balanced approach that the City was taking to debt service. The increase in 2019, 2020, 2021 and 2022 was a high of 1% in 2019 and a low of .4% in 2020. In 2021 and 2022 there was half a percent in .8. The big spike of 36.9% in stormwater was equal to about \$1.00 on the stormwater utility.

Mr. Del Grande thought it was great to have a dollars and cents, so they had done that too. Currently, the average resident in the city of Newark was paying between tax, electric, stormwater, water and sewer about \$276 a month to the City for all of the above. Going with the cash model, they would see their bill go up \$35 a month in 2019, another \$6.20 a month in 2020, and then see a reduction in 2021 and 2022 of \$23 and \$18. This was all on a monthly basis. Using debt as a way to fund the City's projects,

they would need a \$2.77 increase in 2019, followed by \$1.46 and then \$2.33 in 2022. Between \$1 or \$2 a month would be the estimated impact on the residents going with the debt service model ultimately because they were sharing the cost of the projects over their useful life versus trying to pay cash in a short period.

Mr. Coleman explained that the referendum process was strictly spelled out in Section 407.2 of the City Charter. In order to reach Charter requirements, staff had developed a timeline, assuming Council decided to continue on with the process. Tonight was May 14th which was a public hearing for determining what the final referendum questions were. Between now and the referendum on June 19th the City would be doing advertising and the push to get people to actually come out and vote. June 19th would be the actual referendum and then June 21st the results would be certified by the Board of Elections. On July 9th at a regular Council meeting, the results would be certified by Council. After that assuming a positive result in the referendum, staff would work with council to proceed with securing financing for the various projects. If the referendum failed, they would need to reconsider the capital budget and work with Council to reprioritize and potentially raise additional revenue through rate and tax increases. Mr. Coleman said all this information was on the City's website at the above addresses. He asked that people check back often to see the latest updates. If anyone had any specific questions that came up after tonight's meeting, they could email them to asknewark@newark.de.us and staff would be able to provide answers and more information on that. That applied to more than just referendum and included any questions at all about the referendum or Newark in general. They would also be developing an FAQ for the website to address all frequently asked questions.

Mr. Markham opened the floor to discussion and questions from Council. Mr. Markham noted they were here to discuss several questions. The first was whether to do debt. They also needed to consider the amount of the debt, the questions on the referendum and the amount for each question. They could talk about projects but any projects that got approved would come back to Council for spending and approval.

Mr. Hamilton referred to slide 31. He asked if that project was approved for \$9 million. Mr. Coleman said that was correct. Mr. Hamilton referred to slide 25 and noted it said that approximately 10% went toward infrastructure maintenance. He asked where the other 90% went. Mr. Coleman answered that it went toward money transfer or operating expenses and that it depended on the utility. Water utility this year had been zero dollars out of bill going toward infrastructure because there was zero money going toward infrastructure. The rest was peeled off into margin transfer or being paid for out of debt financing. Depending on the fund, some were better than others. He had tried to use the average of the last few years so that if there was around \$9 million, about \$1 million would be for water mains. Mr. Hamilton thought about how much of this went to people and how much time police might have spent in the yellow areas.

Mr. Hamilton asked Mr. Del Grande about interest and payments versus grants. Mr. Hamilton asked if he could explain how that was going to work financially in more detail. Mr. Del Grande advised that using the state revolving loan, there was a grant component to the program. If it was water related, sewer related or stormwater related, depending on which bucket they borrowed those funds under through the program, there were grants that were within each one of those respective areas. If they borrowed, hypothetically, \$8 million for Rodney, and if they were paying back \$200,000 a year interest, they could be eligible for up to \$200,000 back every year for stormwater related grants. Also, in regard to the water projects and the sewer projects, if they were borrowing \$10 million for water, any interest payments going back to the State every year went back into a bucket which then qualified the City for grants. They just had to have a loan in those respective areas in order to qualify for the grant programs. So, conceivably, they could be receiving interest free loans over the life of these projects, depending on how well these grant projects worked out. Things that the City had in the pipeline for the next couple of years, such as continuing SCADA projects or asset management projects, could be fully funded through grants. Ultimately, they were paying back one loan, but then were able to do other projects as well using grants from the state.

Mr. Coleman added that the asset management program, for example would give 50 cents on the dollar back; so, if you paid a dollar in interest, you could get up to 50 cents back. There was also low-income subsidization for people that had trouble and met certain income thresholds. If you had a state revolving loan fund loan in the water fund it gave you access to up to \$200,000 worth of bill support for water bills. On the sewer side, you got access to bill support for sewer bills. Mr. Coleman noted it was a needs test, so not everyone was eligible, and they had to apply and prove that they were. However, just getting a loan got the City access to those programs. Without it, they did not get access. A lot of the other interest went back into the planning grants, which they did not necessarily have to have a loan to get, but the City had pretty good success getting them historically. For projects like the sewer projects, they would

trigger a zero-interest loan based off a certain formula that they had, which was the same one that the City had applied for Rodney trying to get around \$6 million dollars in zero interest loan. Mr. Hamilton asked if that was the one they had narrowly missed. Mr. Coleman said that was correct.

Mr. Hamilton was looking at years 2023 and 2028 where they were spending approximately \$1.75 million on interest that would not be there if they did not take all those loans. Multiplied by 5 years, that was almost \$9 million. He had a hard time spending \$9 million on interest over 5 years when that \$9 million could be put toward the project. Mr. Hamilton wondered if the City would be continually borrowing money or if this would be a one-time thing that would get them through this hump and they would build reserves, so they would not have to do this again. Mr. Coleman answered that this was principal and interest, so much of that was money that the City would be spending under that curve. The interest had been assumed as 2% for Rodney and 3.5% for everything else. The actual money they were spending on interest was much lower. The thought process was to work with Council to revamp the rate structure to make it more consistent.

Mr. Del Grande stated that for the last 3 years, between water and sewer combined, the City had brought in 94% of its budgeted revenue related to sewer and water rates. That equated to \$3 million that the City did not get due to weather-related issues. The water and sewer rates were based solely on consumption; there was no fixed component. All staff could do was estimate what they thought sales would be for the year and hope they got those numbers. This year, the City was on track but to lose that much money every year was a difficult hill to climb and it was not going to be recovered in one year. Mr. Del Grande explained that going to the bond market and state revolving loan program gave the City a window to make some corrections to how the rates were designed that were revenue neutral to the City. It was important to ensure that revenue assumptions were more predictable and accurate, so they were able to build reserves as a result of that and use those funds in future years to help the capital program. Mr. Del Grande could not say that they would not need to do something like this again, but it was not his goal to come back every 3 to 5 years with this issue. Mr. Del Grande thought they needed to take advantage of the opportunity when it presented itself. With the federal rate rising, changing rates and inflation, there was a potential that the City's rates would increase, and it would be more difficult to borrow if needed in the future. Mr. Del Grande wanted to take advantage of the opportunity now rather than waiting a few years.

Mr. Coleman said that one of the big unknowns, specifically on the water side, was that they did not really know a whole lot about the condition of the City's assets. They had inspected 15% of the sewer, and 5 miles of the stormwater system but had done very little actual condition assessment of the water mains. They were making a lot of assumptions here, and frankly he really hoped that this was not what it actually ended up looking like, but if it was, the City would need to do what they were doing and more. Mr. Coleman's hope was that over the next 5 years, they could ramp up staff's ability to do condition assessment on those water mains through more GIS mapping, actual excavations and checking the condition of pipes, to try and figure out whether they would be able to spread out that 10 to 15-year bump. He hoped that 5 years from now, they would have a much better idea of the conditions and where they needed to be and how to get there. They could make a decision about the next 5 years then. Mr. Coleman had heard some comments about the reservoir debt and how rates were supposed to go back down when they hit than cliff. Mr. Coleman did not feel comfortable saying that they would go back down after 20 years. He thought it would be smarter to get into some pattern of looking at debt every so many years, whether it's 5 or more, but his hope was that they could use the 5 years that this granted to try and reduce the amount of debt they needed in the future years.

Mr. Hamilton noted that \$9 million was a good chunk of the total. He asked what would happen if they bought the land and did a stormwater holding but not the park. He knew that some people voted on that and he appreciated the input but felt the finances looked steep. He wondered why they could not simplify things. Mr. Coleman answered that at least one of the grant the City had gotten had a project planning advance. If the Rodney project did not go to referendum or if it did go to referendum, passed and the City chose not to do it, the City would have to repay that \$100,000. If it went to referendum and failed, the City owed nothing. If it went to referendum, passed and the City did it, they forgave half of it. Mr. Coleman did not know what happened if they changed scope of the project. The current contract with UD included a provision that the City could buy the land over time with \$500,000 per year payments. If the City sat on it, they would not be able to get the credit for demolishing the building. He thought the contract had some years out but he would have to look at it again. He knew specifically it did say that from Brownfield reimbursements because that was netted out from the demolition costs. Mr. Coleman needed to check with the State if it would throw off the project planning advance to considerably change the scope of the project.

Mr. Del Grande added that the interest rate paying back to UD was at least 3% if not higher on those \$500,000 payments. The interest they would be paying back was 50% higher than the 2% approved from the state revolving loan. Mr. Del Grande pointed out that the State had approved the Rodney project without even an approve referendum from the residents of the City of Newark, which did not often happen. He had heard that they believed so strongly in this project at the State level that they were willing to put themselves out and reserve \$9 million for the project. Mr. Del Grande was very appreciative that they had given the special rate of 2% prior to the referendum passing. Mr. Del Grande mentioned that what they were trying accomplish with Rodney was the most efficient way to handle the stormwater issues within the City. If this were to fail and nothing happened, there was a still a stormwater issue that had to be addressed. Mr. Del Grande felt that getting that resolved would cost a lot more than \$9 million over time.

Ms. Wallace stated one of the questions she had been asked was whether they could separate out the repayment of park features from the stormwater utility. Mr. Del Grande said that the stormwater utility had different users than the park funding going through the general fund. There were two different customers. There were tax payers on the park side and utility users on the stormwater side. DNREC had approved the loan as a stormwater project so it qualified as stormwater with all the criteria they had to meet for the park to be there on 7 acres. Since it was a stormwater project, there were more commercial and education facilities that were paying more than they would if it was on the park side of the program. Mr. Del Grande explained that would they would end up doing would be to shift approximately 60% of the park costs over to the taxpayers if they moved it to the parks and did it at a future time. Mr. Coleman also said that park amenities were generally counted as educational in the State's eyes, so they would be able to take credit. Normally they would not have been included in a clean water SRF project but because this had been designed very specifically to be educational, the City would be able to credit for that on the MS4 permit toward meeting the State's requirements.

Ms. Wallace understood. Ms. Wallace noted that they had started the stormwater utility to be more equitable and for stormwater customers to pay for stormwater projects. She was concerned that park features were not stormwater projects. She thought they were going against what they had said and that was not fair. The bulk of the stormwater utility was paid for by businesses not residents. They would be footing a bigger part of the bill which included a park. Ms. Wallace assumed that businesses would not necessarily be in agreement that park features were a necessity in a stormwater utility. Ms. Wallace asked if it was possible to remove the park features for the repayment from the stormwater utility and have them be repaid through the general fund. Mr. Del Grande said it would cost a lot more. Mr. Coleman said it was possible. Ms. Wallace asked if that would mean they could not use the state plus loan. She asked if they had to repay the state plus loan through the stormwater utility. Mr. Del Grande did not think the State cared what funds were used. He noted they may have to go back for additional approval since the State was originally told that the City would be using stormwater funds. Mr. Coleman noted that they could do a general transfer out of the stormwater fund, they just could not take a transfer out of the stormwater fund.

Ms. Wallace asked why it would cost more. Mr. Del Grande stated they were taking a large group that paid stormwater utility out of the mix. Mr. Coleman advised the tax would go up more than one would save as a resident. Right now, the commercial customers that had a proportionately lower tax bill compared to their stormwater impact would see the opposite. The residents would pay more. Ms. Wallace asked if that decision needed to be made tonight. Mr. Coleman said it did not. He noted they could make that decision whenever Council wanted. Ms. Wallace asked if an additional question could be added to the referendum just for the park. She would like to separate the stormwater purchase of Rodney and stormwater retention pond and have the park be a separate question. Mr. Bilodeau said he would contemplate that.

Mr. Lawhorn commended staff on taking a very complex issue and boiling it down for both Council and the public. Mr. Lawhorn thought that this was a complex issue for him and between the questions he had asked during his campaign and the public presentations, it had become pretty clear. Mr. Lawhorn thought that the public asked a lot of good questions at the workshops and had been generally receptive to the message staff was sending. He thought the public understood how the City got to where it was and what it meant going forward. In Mr. Lawhorn's experience, the residents were open to what had been laid out. Mr. Lawhorn was interested to hear more public feedback. He noted that Newark was in an environment where the rates were very low but that was not always the case. He thought if the City was going to take on debt, now was a good time from a rate standpoint. The other point that had come up during one of the town halls was that it was not just the money, it was the time too. Mr. Lawhorn had asked Mr. Coleman whether it was a concern about not just money, but resources if this project were to be delayed. This could present an issue if you looked at how much risk the City had as they moved forward especially in the 10 to 15-year timeframe. Mr. Lawhorn said that as far as the park issue, he thought they

had spent a lot of time on that issue during public meetings and that the public had chosen the park. He thought it was a reasonable point that if companies were paying more of a stormwater fee, but he thought this brought people to Newark and they would benefit from it. He was not totally against it just because companies may pay more.

Mr. Clifton noted that on page 36, it said that bond costs in 2011 were \$110,000. Mr. Del Grande explained that included the hiring of the bond counsel, the FAB agent going through the bond process and having the bond rating reaffirmed with Moody's and Fitch. They were given an estimate of \$150,000 for this year. Mr. Clifton asked if Mr. Del Grande was just talking about administrative fees and not interest. Mr. Del Grande said that was correct. He said it was all fees related to the bond process. That amount stayed relatively fixed. It behooved the City to go to the bond market if the state revolving loan projects were not approved by the State. Mr. Clifton stated that at some point in time, he would like to get into a deeper conversation about the interest they were paying over the 5-year period. Mr. Clifton thought it seemed as though they were paying back the principal, but they had the money to do that. Mr. Del Grande said the key was having the money to do it. Mr. Clifton noted they had the money to pay it back. He did not want to say they should pay it up front because he knew that there were mechanisms that had to be in place to raise that type of fund on a yearly basis. On page 43, Mr. Clifton pointed out that between financing by cash and financing by debt there was much of a chasm. For example, he was looking at 2019 where they could debt finance it for an impact of 1% but if they cash financed, it was 12.7%. He asked why that was.

Mr. Del Grande answered that they were going from a \$2.3 million annual payment for debt service in 2019-2020 to over \$12 million. They would need to find an extra \$9-10 million in cash just in those 2 years to finance those projects if they were to do it themselves. Mr. Clifton asked how much cash that was per year. Mr. Del Grande said they were spending about \$2.8 million right now. With cash only, they would go from \$2.8 million to a little over \$5 million in 2018 to almost \$13 million in 2019. He would much rather incur some debt and that gave them the ability to allocate the costs of these projects over the time period people would be using them. Mr. Del Grande pointed out that there were people who had not even moved into the city yet that would be using the Rodney stormwater project and taking advantage of all the water and sewer projects. He would rather share the cost with those who had not moved here yet rather than having the City pay for those costs over a 4-year period.

Mr. Coleman noted you did not have to go out far. He gave an example of someone who lived in Newark in 2019 and moved. That person would be paying 12.7% more for something that was not even built yet. In 2022 if someone moved into the city, their rates were back down to where they were before, and they actually got to use it. The people that lived here today would pay for it and may be gone before it was finished while people that were actually here to use may not have paid for it. Mr. Clifton was not necessarily comfortable with the analogy about people in the past that used it without paying for it. He noted Newark was a fluid community and there were people coming in and out all the time. He did not think that was a great analogy to use. He wanted to get into more detail at a later time.

Mr. Bilodeau updated Council on the issue regarding 4 questions rather than 3 for the referendum. Mr. Bilodeau advised that the advertisement for this meeting did not say that there would be 3 questions considered. It only said the amount to be borrowed: \$27 million. If they wanted to add a 4th question or sub-part to the 1st question about the Rodney stormwater facility, they could do that. Mr. Markham clarified they did need to set it tonight. Mr. Bilodeau said that was correct.

Mr. Morehead wanted to recognize all the work that staff had done on this. There had been a lot of information put out and he appreciated that. Mr. Morehead had many questions along the way and had asked for more information which he had received. The detail on the spreadsheets that supported what was on the screen and the detail in those was numbing. It was also very interesting. One of the problems he was having was around his perception that this was a finance issue. It was about the infrastructure in that that was the target, but it was not about the individual projects. Mr. Morehead said that talking about finance, he considered how would he would do this in his private life. He had a mortgage for his house, but he did not have a mortgage for anything he wanted to put in the house or replace. This was not how he did things. It was not how he financed his life. He did not believe in financing operating expenses. He believed they were on a slippery slope because there were 3 large projects that he believed did belong in the debt finance situation. Those would be Rodney, the South Well Field airstripper project and the Laird Well Restoration. He thought these all fit perfectly in that. The rest of it was ongoing routine expense for him.

Mr. Morehead recalled that when they were headed down this road, they were promised to have the holistic approach to finance the City and he was deeply concerned that if they did this debt financing that removed the need to have that discussion for 5 years. He thought if they removed that need they

would not do it and would not have the discussions. Mr. Morehead felt Council had hard discussions they needed to have and hard decisions they needed to make. Councils in the past did not raise the water rates for a decade at a time for example. That had happened several times. Then when they raised them they had to raise them drastically back to back to make up for where they were supposed to be. He wanted Council, rather than kicking this can further down the road, to actually look at what they had to do and have those discussions and do the hard work. One of the examples was all the discussion about replacing the water mains and why they desperately needed to do this work. This plan replaced 4 miles of water mains and in the meantime, in those 5 years, 27 miles of water mains were going to expire. Mr. Morehead felt they were not addressing problems that they were saying existed in this plan. He was not sure why to do it.

Mr. Morehead noted debt finance was the difference between \$44 million if the City paid for it in cash and \$54 million if they paid for it in debt financing. Mr. Del Grande said that was about right. It was a \$10 million interest bill over the next 25 years by the time they got all the money borrowed. On the one hand it was not a lot of money over time, but on the other hand it was \$10 million more. Mr. Morehead would love to hear what the people in this room had to say. He had heard from a number of people already. He shared he was not hearing that they had sold this method of finance successfully. He heard a lot of support to do the work. Mr. Morehead referred to slide 43, the top box. The total bill had to go up by 12.7% next year. Mr. Morehead recalled that a couple years ago, the mayor had said taxes needed to go up 10% and Council did not do it. She had gone to an interview with a newspaper that next week and said she had wanted 10%. This was 12.7%. Mr. Morehead was wondering if the City had enough money in reserves that they could loan themselves some money and knock that 12.7% down to even that spike out.

Mr. Morehead noted that people had been very careful to state sentences that were technically correct. Mr. Del Grande had said he did not want to come back between 3 and 5 years. Mr. Morehead was looking at and said they would absolutely be back here in 5-6 years. He felt there were no questions about it. If they were going to make progress on the infrastructure, they were going to be back here. Rather than doing that, he wanted to fix consumption rates, identify asset situations and talk about the three large projects.

Mr. Markham noted that at the town hall meeting he had attended, people were pleased with the idea of financing. He did not think they would be pleased to see a 30% tax increase. He recalled that they had discussed the red map and noted that some areas were redder than others in contributing to the general fund. Mr. Markham commented that staff had not mentioned the cost of emergency repairs. Mr. Markham asked what the multiplier was when things broke. Mr. Coleman estimated an average water main break cost about \$10,000 to repair based on direct costs, personnel, labor and materials. There was also a secondary cost to residents. Mr. Markham pointed out there was also loss of revenue. Mr. Coleman agreed there was a loss of revenue when businesses lost water. Mr. Markham asked how much it cost if it was scheduled work. Mr. Coleman answered that they did not generally do that type of excavation except for associated with a main break. Mr. Markham wished to know the difference between an emergency main break and a scheduled repair per mile. Mr. Coleman said it would be a lot higher. He stated they had only had to do one emergency large-scale item like that. That was emergency lining due to a failed pilot project. Mr. Coleman stated if they were doing 25, it was \$1/4 million to \$300,000 per year in costs just associated with main breaks currently. Mr. Markham asked if there would be less of those if there was scheduled maintenance. Mr. Coleman said that was correct.

Mr. Markham recalled that when discussing stormwater and Rodney, one of the things was that the largest landowner in the City who did not pay taxes would help buy that property back from themselves. He thought that was another good reason to keep it within stormwater.

Mr. Coleman pointed out to Council that if they decided to split the project into 2 questions for Rodney, staff would want to include at least \$6.5 million for the Rodney question. The original project's option 1 was \$6 million, option 2 was \$8.1 and they had asked for \$9 from the State to leave some room for contingency. Mr. Coleman would like to be closer to \$6.5 for Rodney and put the difference on the park portion to get the total \$9 million. Mr. Markham asked for clarification that Council had approved asking for \$9 million. Mr. Coleman said that was correct.

The Chair opened the floor to public comment.

John Morgan, District 1, advised that Lena Thayer had ceded him her 3 minutes. Dr. Morgan asked if there was a separate question on the park would that be merely advisory to the City or whether it would be determinative. Mr. Markham said there was a dollar amount associated with the question. The question was to determine that dollar amount. Dr. Morgan wanted to say that he fully appreciated the

need for raising money to deal with infrastructure repairs. He was going to focus on legal issues with the stormwater retention pond and the Rodney site. He had distributed at the dais comments and a map of the Newark Country Club, with which he was going to make a comparison, and a recent legal case involving the Newark Country Club. During the past few years, Dr. Morgan had repeatedly tried to draw attention to the issue of the City of Newark's legal liability if a small child or a drunken undergraduate were to drown in the stormwater retention pond proposed for the Rodney site. Not just once but twice in the past 15 years, lawsuits were filed by the parents of children who had drowned in the irrigation pond in the middle of the Newark Country Club's golf course. He had placed in front of Council a printout of a Google map showing the vicinity of the Newark Country Club with its ponds colored blue and a copy of the Superior Court Judge's refusal to bring summary dismissal to the club in the most recent lawsuit less than 2 years ago. He urged Council to read this material very carefully and ponder the implications for the City of Newark's plans for the Rodney site. He felt the City of Newark would be in a much worse legal situation than Newark Country Club should someone drown in the proposed Rodney Stormwater Retention Pond for several reasons.

First, Newark Country Club was private property with its perimeter guarded by fences, so people who entered it without permission were clearly trespassing. This was a defense the Newark Country Club tried to use in the most recent case. In contrast, the Rodney site would be a public park open to all, including small children. Next, the City of Newark was advertising the visual attractiveness of the pond and its immediate surroundings for recreation by families with small children, such as having a playground. Whereas, the Newark Country Club had been doing no such thing. As could be read in the judge's recent decision, prior knowledge that an artificial body of water was attractive to children was an important factor in deciding whether a property owner was liable for compensatory and/or punitive damages. The City could not claim that it could not reasonably have foreseen that the Rodney Pond would be attractive to small children. Moreover, unlike the Rodney site, the ponds several hundred feet inside the fenced off property of the Newark Country Club were not immediately adjacent to nearby houses where small children lived, or apartment building where many undergraduates lived. He noted the Rodney site was a short walk from the Deer Park and other bars on Main Street.

Finally, if a small child or a drunken college student was killed or seriously injured in a pond on the Rodney site, Dr. Morgan said the City's taxpayers would have to pay many hundreds of thousands of dollars just defending the City against a lawsuit filed by a lawyer working on a contingency. If the City was found liable, its taxpayers would be responsible for many millions of dollars in legal costs for compensatory damages and possibly also punitive damages for ignoring the obvious dangers. Dr. Morgan had been told that the proposed design for the Rodney stormwater retention pond would meet the safety specifications by professional engineers. Hence, he asked whether the professional engineering firm employed by the City of Newark would take out a bond to cover the City's full legal costs should someone be killed or seriously injured in the proposed pond on the Rodney site. He thought the answer to this question would be illuminating. He felt there was simply no shallow depth of water or gentle slope of a ponds banks which made it safe for an 18-month old toddler or a drunken 18-year old undergraduate. Hence, in his view the only way that serious or fatal accidents in the proposed stream water retention pond could be prevented was to have it surrounded by a very high chain link fence topped by barbed wire similar to that at the adjacent Oakland Swim Club. Dr. Morgan shared that before the meeting, Councilman Hamilton had told him that some UD undergraduates had even managed to get over that fence. Mr. Hamilton interjected that he had not specified that they were UD undergraduates.

Dr. Morgan urged that before it was too late, Newark should seek an independent opinion of this potential legal liability from an attorney whose expertise was in personal injury lawsuits filed against municipalities in whose artificial ponds people had drowned. He pointed out this should be in Delaware as the law varied from one state to another. He stated that Delaware was unusually hospitable to claims when people had drowned in ponds on an owner's property.

Helga Huntley, District 1, had listened to the presentation a couple times, because she went to one of the town halls. She thought she was already convinced that the projects that were part of this were definitely necessary to complete. The part that she was not as convinced about was whether the right way to finance them was with debt. She thought that her hesitation arose from seeing the \$10 million of the total cost of the bid over its lifetime and thinking about all the things that the City could do with it other than paying interest. She noted they did ultimately have to pay for all these pipes, street paving and all these other projects one way or the other. She did understand the argument that generations in the future would be making use of the projects that they were paying for today. However, in the same way she moved here and had not paid for any street paving, had not paid for any water mains and had not paid for any sewers. She was getting to enjoy those without having to pay for them, so she did not think it was necessarily unfair that now she had to pay for the replacements and the people in five years would pay for the replacements that would take place in five years, etc., etc.

Mr. Huntley thought by debt-financing recurring expenses, such as the water main replacements, street paving and sewer inspections which they know had to happen every year, she thought it was just as fair to have people pay what was being done that year instead of saddling future generations 20 years from now with having to pay all the interest, a part of the expenses plus a part of the expenses from the next set that they took on in five years, etc. She recalled she was given an answer when she asked about the longer than 5-year outlook. She had asked what it would look like in 5 years and why they needed to take a debt on that. She wondered why they did not wait for 5 years when they had a big down drop in debt obligations and then take on these really big, really expensive, multimillion dollar projects. She had gotten the answer that in 5 years they would be back here, and they would have to take on more debt. Ms. Huntley was worried that that they had not considered the long-term costs past the 5 years, because she knew there would be more costs. From her point of view, she thought debt was a great way of paying for one-time, expensive, long-lived projects, such as the Laird Rehabilitation and the South Well Field treatment plant.

Ms. Huntley wished to point out 3 technical issues she had with the resolution as it was currently phrased. Her biggest issue was that it had always been talked about that there were going to be three questions on the referendum. The way the resolution was currently stated, in particular part B, there was a single question mentioned. Ms. Huntley recommended that the resolution be clarified and amended if they intended to keep the three questions. She felt it was important to be absolutely clear that there would actually be 3 and not just a single question on the referendum. Secondly, in the announcement, as it was currently cited in part B of the resolution, it was not classified who the eligible voters for the referendum were. She recommended that that was actually spelled out specifically since the eligible voter categories were different from all the other City elections that took place. Her last technical point about the resolution was that the total that was displayed in the resolution for the total debt that was requested was not consistent with the total that was still being presented in the presentation on slide 3 which was about \$800,000 less.

Jonathan Matner, District 4, stated he was a part-time UD student and a full-time resident. Mr. Matner shared that he had lived in Rodney dorm his first year at UD in fall of 2013. He agreed with Dr. Morgan when he had said that the City needed to ensure the liability. He knew that several students, year after year at UD, specifically undergrad students, died. He felt it was important to ensure the safety of them and other people who were residents in the community. Mr. Matner thought \$8.2 million was an astronomical amount of money for that project. He was not saying stormwater should not be a priority, but he thought the other parts of the referendum were higher priorities. Mr. Matner thought that since the property had been sitting around since summer of 2015, not being used, the City should push on UD to bear the costs of the whole demolition of it. He thought they should pay the fair share, so residents did not have to pay as much.

Mr. Matner agreed with Mr. Morehead in terms of long-term financing and long-term sustainability for the future. Mr. Coleman had said that they needed to build roughly 50 to 60 housing units just to keep up with full-time residential growth for Newark residents, not UD students, because they came and went. Mr. Matner felt that without action on leveling the playing field in regard to zoning laws, the City Council and the residents should try to push lobbying to work with State legislators to make UD not as equal in terms of a charter, so they could abide by the zoning laws, pay more utility taxes and allow the City of Newark to hold prime real estate. This would enable the City to build residential units and full-time housing for people who lived here long term, year after year, and raised their families here. This would increase tax revenue and lighten the tax burden for long-term sustainability to balance the budget and to maintain infrastructure costs like the sewage, the main waters and stormwater. Mr. Matner was very pro UD. He felt it was a big reason why the City was thriving. However, he felt like the City had to level the playing field with them and make sure they were paying as high costs as the residents were paying in terms of the utilities and in terms of tax revenue. He noted only 50% of the area in the City paid tax revenue and he did not think that was right. He felt like that had to do with this, because this was about long-term financing. He thought infrastructure was a very important issue with this city and the rest of the country. He felt if the residents and the people on City Council could really push to level the playing field, it would be good for long-term financing for the residents who lived here long-term.

Jean White, District 1, stated she had read through the establishing of a bond and certificate of indebtedness and the second page said that all qualified voters of the City of Newark shall be entitled to one vote. Ms. White noted that it would really be 3 votes because there would be 3 different questions. Each resident would be able to vote for or against each of the three questions. Ms. White agreed with Ms. Huntley that it was not indicated on this that there were 3 different sections with 3 different votes. Ms. White felt it needed to be written so that it was not misunderstood.

Albert Porach, District 2, asked about slide 42. He asked how it would be affected if the Rodney stormwater project were abandoned. Mr. Coleman answered that the orange would go away, and they would be left with the two shades of blue and gray. Mr. Porach asked what the amount would be. Mr. Coleman stated it would peak at around \$8 million. It would be an extra \$5.5 million in year 2020. Mr. Porach asked if it was correct that they could abandon the Rodney project and pay for the infrastructure improvements by cash. Mr. Coleman said the City did not have enough cash to pay for any of those and it would need to be new cash. Nothing above the green on slide 43 existed today.

Mr. Porach felt that the only things that were really important were those things that pertained to the health, safety, and welfare of the residents. This included fresh water, sewer and electric. Stormwater did not count. Stormwater remediation did not count. Mr. Porach felt that stormwater was something that came up in the 1990s with the Environmental Protection Agency and was a big pipe dream that was perpetrated throughout the country. This was essentially what the Rodney project was. He stated it was a continuation of that same sort of thing. He said it was really nice and remediation was necessary but not as expensive as this. He thought the best thing they could try to do was make sure they concentrated on the priorities. The health, safety and welfare of the people. Water, sewer and electricity, not stormwater remediation. Mr. Morehead pointed out that he lived in a neighborhood that was surrounded by streams. When it rained, it sometimes flooded all of them at the same time and they stayed flooded for over an hour. If anyone in those 85 houses had a medical emergency, they would need a helicopter. Mr. Morehead respectfully disagreed with Mr. Porach and felt that stormwater was an issue. He noted it was truly a life safety issue in some cases. He agreed it was not always, but it was in some cases. Mr. Porach thought it was highly improbable. Mr. Morehead said it happened. Mr. Porach said that when he was doing research for his paper, he had looked at the Johnstown flood. This was when the dam on the Little Conemaugh River collapsed and wiped out the city. He felt this was the stormwater that should be addressed, not just someone's water runoff coming down the street and occasionally flooding downtown.

Mr. Markham returned discussion to the table for final Council comments.

Mr. Clifton asked that Mr. Bilodeau address the legal ramifications referenced by Dr. Morgan. Mr. Bilodeau stated that in the Newark case that Dr. Morgan referenced, the City was actually a defendant in this case to start with. The person that passed away had come from a Newark park that was right next to the golf course. Under the Municipal Tort Claims Act, the City did not have any liability and they were dismissed from the case. That would be the case if they owned the property as well. The Municipal Tort Claims Act had very specific areas that said they were basically immune from suit except in very limited circumstances and this was not one of those limited circumstance. The City would have immunity from suit.

Mr. Markham stated they needed to discuss the amounts and the number of questions for those amounts. Ms. Bensley pointed out that this resolution and the language in it did mirror the resolution that was used successfully in 2001 for the referendum for the reservoir. The wording was found to pass muster at that time. The only notable change from that, other than the item specific changes, was item C was amended to be changed to the language that Council decided to use in the April 23rd resolution that was passed. That language was identical to the previous resolution. She said that regarding the statement, "all qualified voters shall be entitled to one vote", that was one vote on the ballot machine that was being used on the day of election. That would list all questions. People could vote, or not vote for each of the questions as they chose. Once they entered the voting booth, that was their choice, but they were only allowed to enter once. Mr. Markham asked if it was correct that based on this language, a sample ballot for the referendum would show three questions with amounts next to them and each one would have a "for" or "against" next to the question. Ms. Bensley said that was correct. Mr. Markham asked if there was a final vote button which would be the single vote. Ms. Bensley advised that was right.

Mr. Markham asked if there was enough interest to proceed with having a referendum on June 19, 2018. Ms. Wallace, Mr. Clifton, Mr. Markham and Mr. Lawhorn answered yes. Ms. Bensley said that currently the 3 questions on the ballot were for the Rodney stormwater facility at \$9,000,000, the 2018-2022 water and sewer capital improvement program CIP projects for \$15,625,000 and the 2018-2022 capital improvement program CIP projects for \$3,000,000 for a total of \$27,625,000. Mr. Markham suggested that they set aside the money for a moment and focus on the questions. Mr. Markham asked if there were any amendments or additions to the 3 questions.

Ms. Wallace asked how confident staff was of the numbers in regard to separating out the Rodney stormwater facility. If they were to separate out the park features from the stormwater features, Ms. Wallace did not want the stormwater facility to not have enough funding if they got those numbers wrong tonight. Mr. Filasky stated the \$2.5 million was the estimate for the park features and option number one

had been discussed with the public was \$6.1 million. Option one was basically a stormwater pond with the access trails around it, which gave staff reasonable confidence that \$6.5 million for the stormwater portion would be sufficient with the contingency that they add it in to get to \$9 million from \$8.1. \$2.5 million would be essentially what they had planned for the park. Staff was reasonably confident that \$6.5 and \$2.5 million would be sufficient. Ms. Wallace proposed that they add a fourth question. She was not sure how to do that procedurally. Ms. Bensley recommended that they renumber the questions. Ms. Wallace proposed that the questions be as follows: 1) Rodney stormwater facility, 2) Rodney park, 3) current #2, 4) current #3. Mr. Markham asked if Ms. Wallace wanted to suggest adjusting monetary numbers. Ms. Wallace said that question 1 could be \$6.5 million and question 2 would be \$2.5 million. The others would remain the same.

MOTION BY MS. WALLACE, SECONDED BY MR. LAWHORN: TO AMEND THE QUESTIONS AS FOLLOWS: 1) RODNEY STORMWATER FACILITY AT \$6.5 MILLION, 2) RODNEY PARK AT \$2.5 MILLION, 3) CURRENT QUESTION #2, 4) CURRENT QUESTION #3.

Ms. Wallace stated her reasoning for this amendment was that she thought it was very important that the City purchased this property and implemented stormwater management there. However, she had heard some residents be critical of the park and had concerns that the whole Rodney question could fail if Council did not separate out the park features. Ms. Wallace thought the park was a great idea, but she thought the residents should have an opportunity to consider both separately.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

Mr. Markham stated that the overall total was still the same.

Mr. Clifton shared he had discussed an issue with Ms. Bensley that he wanted to bring to Council. Mr. Clifton stated in paragraph C on the back page, he had some discomfort in the way this was worded. It currently read, “it is understood that the project may actually cost more or less than the amount and this shall not be construed as to limit the right of council and that the council can obligate either more or less money to fund these projects as appropriate.” It was a true statement, but Mr. Clifton thought it was somewhat confusing. Mr. Clifton noted this made it appear that Council could spend well beyond \$27.5 million. That was true, they could, but they had to do it from funds that had already been approved in the budget. Mr. Clifton wanted to explore a short line in there that defined that funds excess of the stated amount would be required to come from previously budgeted money. Ms. Bensley stated this was not exactly accurate because there was nothing to stop Council from deciding to raise new revenues in some way to fund the excess amount. It just could not be issued as additional debt over that amount. Ms. Bensley said it may be more accurate to say that the Council could obligate either more or less money to fund those projects as appropriate from sources other than debt. Mr. Bilodeau agreed with this wording.

MOTION BY MR. CLIFTON, SECONDED BY MS. WALLACE: TO AMEND PARAGRAPH C TO READ AS FOLLOWS: ATTHOUGH THE AMOUNT TO BE BORROWED AS SET FORTH IN SECTION B) IS A FIXED SUM OF \$27,625,000, IT IS UNDERSTOOD THAT THESE PROJECTS MAY ACTUALLY COST MORE OR LESS THAN THAT AMOUNT AND THIS SHALL NOT BE CONSTRUED TO LIMIT THE RIGHT OF COUNCIL AND THAT COUNCIL CAN OBLIGATE EITHER MORE OR LESS MONEY TO FUND THOSE PROJECTS AS APPROPRIATE FROM SOURCES OTHER THAN DEBT.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

Mr. Morehead noted that paragraph C stated that the amount was set forth in section B as a fixed sum of \$27,625,000. Mr. Morehead felt that the sentence structure implied that this was one question and that it was almost predestined. Mr. Morehead noted it was now 4 questions and he wanted to see that changed to something along the lines of “the possible amount to be borrowed is a maximum of \$27,625,000 if all questions are passed.” Mr. Morehead knew that the structure of the paragraph was to give Council flexibility to fund it in different ways and he was not looking at that part at all. He was looking at how it discussed the questions. Ms. Bensley reminded Council that the original structure of that paragraph was, “that the designation herein of the amount allocated to this project is approximate only

and shall not be construed to limit the right of the council to allocate a greater or lesser amount to accomplishment of the designated purpose.” Ms. Bensley’s understanding from the previous meeting was that one of the concerns was that it did not have an amount there. She wanted to make sure they were consistent with what they put forward. Mr. Morehead said that was addressing the ability of Council to finance individual projects more or less but this was a maximum borrowed amount. Mr. Bilodeau suggested that C could start off with, “if each of the four questions receive favorable votes, then the total amount to be borrowed will be a fixed sum of \$27,625,000.”

MOTION BY MR. MOREHEAD, SECONDED BY MR. CLIFTON: TO AMEND PARAGRAPH C TO START WITH, “IF EACH OF THE FOUR QUESTIONS RECEIVE FAVORABLE VOTES, THEN THE TOTAL AMOUNT TO BE BORROWED WILL BE A FIXED SUM OF \$27,625,000.”

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.
Nay – 0.
Absent – Sierer.

Mr. Morehead recalled Ms. White’s concern with item D, paragraph 2. Mr. Morehead would be more comfortable if it said, “one vote on each question.” In the last sentence about corporations, he would be more comfortable if it said, “one vote on each question.”

MOTION BY MR. MOREHEAD, SECONDED BY MR. CLIFTON: TO AMEND ITEM D, PARAGRAPH 2, FIRST SENTENCE TO READ, “AT SAID REFERENDUM ELECTION, ALL QUALIFIED VOTERS OF THE CITY OF NEWARK SHALL BE ENTITLED TO ONE VOTE ON EACH QUESTION. IN ADDITION, THERETO, EVERY PERSON OWNING PROPERTY IN THE CITY OF NEWARK AND WHO IS NOT OTHERWISE A QUALIFIED VOTER, AND EACH CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP OWNING PROPERTY WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF NEWARK, SHALL BE ENTITLED TO ONE VOTE ON EACH QUESTION IN SAID REFERENDUM.”

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.
Nay – 0.
Absent – Sierer.

MOTION BY MR. CLIFTON, SECONDED BY MS. WALLACE: TO APPROVE THE RESOLUTION ESTABLISHING A BOND AND CERTIFICATE INDEBTEDNESS REFERENDUM AS AMENDED.

Ms. Wallace shared that she had struggled with various parts of this referendum from the beginning. She was still struggling with some parts. She did make some amendments but chose not to make others. Ultimately, she had decided that this would be up to the voters and it was their decision to determine how these projects were funded. She personally thought it is important for the City to take care of its infrastructure and she thought they did have a funding problem in the city that needed be addressed. However, she did not think at this time that they should put off funding these projects to have that discussion. She thought they needed to do both. She encouraged staff as they moved forward into the budget season to come up with some creative solutions. While she approved of debt for some of the larger projects, she did have concerns about taking on debt for some of the reoccurring projects.

Mr. Hamilton agreed with Ms. Wallace. He thought it was important to put this in the hands of the residents. He did not see debt as the long-term solution, and he was hoping that they had those discussions coming up. Mr. Hamilton did not agree with everything in here, but he could spend another two or three hours parsing it out. He would leave it up to the voters. Personally, he would be looking a lot harder at the budget in the next few months and he hoped they asked those questions. He did not want to be coming back here in 5 years asking for more debt. Working it out, it looked like \$700,000 approximately for the next 5 years per year in interest. He would rather not be spending that.

Mr. Morehead was also deeply conflicted about this. He thought it was important that the voters have their say. He also thought it was important that Council and staff moved forward trying to fix the structural financial issues, as if all this had been turned down at the referendum. That would be to start putting fixes in place this year because they had been talking about financial problems and Council had done extremely well. Mr. Morehead recalled it was not more than 10 years ago that the infrastructure was only repaired when it broke. During those last 10 years, Council had moved to “back of the napkin” infrastructure replacement maintenance, as they had come to understand with newer technology what

kind of shape the infrastructure actually was in. They were getting better at knowing what they needed to do and what could be put off. He felt Council had taken the infrastructure maintenance seriously and had made huge strides, but they still had a basic finance piece that they needed to grapple with.

Mr. Markham agreed it was time to put this in the voters' hands. He felt that the voters were intelligent and would make the decision to drive the City forward.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

(RESOLUTION NO. 18-J)

(Secretary's Note: There was a 5-minute break from 10:26 p.m. to 10:31 p.m.)

18. 6-D. 2019 BUDGET HEARING SCHEDULE

03:22:40

Mr. Del Grande noted that the 2019 budget season was upon them and he was present to talk about what type of budget schedule meetings that Council was looking to have. Mr. Del Grande had sent a memo to Council a few weeks ago with the same scenario that had been used last year. He said they had the option to stay with something similar to that model, make it shorter or longer or have Saturday meetings. Mr. Del Grande was looking for insight into how Council wanted to go through the 2019 budget cycle.

Mr. Markham was not interested in Saturday meetings. Mr. Del Grande thought there may be more public involvement. Mr. Morehead wanted to talk about structure. He thought it would make sense to start with a conceptual discussion about where they were going, how they were getting there and what they were aiming for. He meant things like whether they were looking for a balanced budget or known increases. He thought it would be helpful to get that out of the way because Council had been on the receiving end and that was the wrong way around. Mr. Del Grande brought to Council's attention, the third line down where he wrote, "overall summary/department budget hearing." Last year they had discussed Council having some estimated revenue numbers in front of them prior to the budget process. He felt the best way to share that would be overall revenue vs. estimated expenditures starting off and then following up with each department, not necessarily having revenues reflected in every department because every not department was a revenue generator. Council would still again just be seeing pieces of the whole puzzle. Even though it was not going to be 100% accurate at the first meeting, staff could have a revenue summary made up of estimates as of their best guess at that time. Mr. Morehead thought they needed to do that. He pointed out that last year, Council had all of the expenses and none of revenues until almost the very end.

Mr. Del Grande said that was correct. Looking at this year's quarters, they were not expecting any surprises in revenue numbers or any major deficits at this point in time. Mr. Del Grande did not foresee any issues as they went out into the year. The utility numbers were looking to be on budget for the first quarter. That was a good start. He would be using 2018's revenue numbers as the starting point for the 2019 numbers. Mr. Del Grande noted that last year, they had used about a month's worth of time between the middle of August and the middle of September, having the departments come out one by one to present their budgets to Council. He thought it may have taken more time than they thought because it was the first time doing so. As they got toward the end of the rounds, they had gotten more efficient. Council ultimately had all the information in plenty of time to digest it, so Mr. Del Grande hoped they may be able to speed up some of the budget hearings this year. He was open to any suggestions.

Ms. Wallace asked if there were any preferences from staff. Mr. Del Grande said less was better. Mr. Coleman clarified condensed was better. Ms. Wallace asked if Saturday's were staff's preference. Mr. Del Grande was open to any suggestions. He did not personally have an issue with it. Ms. Wallace did not have an issue with it either. She just wanted to have meetings at times when the public could come. She thought Saturday's would be a fine time for the public. She did not know if they would want to stay for an all-day session. She would be open to option 1 or 2. 6 p.m. was difficult but she could make it work.

Mr. Clifton would be open to Saturday's. The only thing he did not like about option 2 was that it did not really make sense to clear the agendas because people already expected Council to be here. He thought the devil was in the details because there were other things that could occur such as potential

development projects. He thought it would be a very efficient way of doing it, but he did not see that happening. He was open to options including Saturday mornings. Mr. Del Grande said that this year he looked to add to the department presentations a one-page summary sheet on the front so that they did not have to go through every page of the presentation. Ultimately, there could be a one-page sheet to notify Council members what the major changes were from the previous year or hot button issues. Mr. Clifton thought that made sense because it was an executive summary. He thought important issues would be if a position was cut, a position was added and what the finances were.

Ms. Bensley wished to respond to a concern of Mr. Clifton. She said that last year, they had done this for the first meeting in September, because one of the meetings that had been scheduled was during Labor Day week and there was not going to be a quorum of Council available. Council had elected to have that budget hearing in place of the first meeting in September. Ms. Bensley noted that, as far as development plans were concerned, Council was not constricted with the strict timeline that the Planning and Development Department was as far as processing and going to Planning Commission. There was not a specific number as far as days in which Council had to consider a plan after the Planning Commission. She believed it just said the plan had to come forward within a reasonable amount of time. So, if Council were to schedule their budgeting hearings during the August and September meetings, Ms. Bensley anticipated that they could still bring forward any development projects within a reasonable amount of time. Mr. Clifton noted that looking at tonight's agenda, there were purchases that Council needed to move forward with and that those kinds of requests did not stop. It was a public body that had a lot of responsibility. Ms. Bensley thought that by making this decision now, they were giving staff plenty of time to plan for August and September.

Mr. Lawhorn preferred not to do Saturday's. He would prefer to do weeknights. However, if it was more efficient for staff to do Saturday's, he would prefer the meetings be earlier in the day to finish early in an efficient manner.

Mr. Markham noted that Saturday's were one of the few times he had available for family, so he would also prefer not to meet then. He thought one was possible but not multiple.

Mr. Markham asked if Mr. Del Grande was getting any feedback. Mr. Del Grande was hearing that weekends were possible. Council meetings may be too much, but it may be possible to have special meetings. He said he would coordinate with Mr. Coleman and Ms. Bensley to send Council an email with possible dates that were available. He suggested blocking out a morning on a Saturday for 4 or 5 hours. Ms. Bensley noted that in bringing this to Council, they wanted to avoid what happened last year when dates were set and given to Council, then Council was not available for all of them. They wanted to incorporate Council earlier in the process to make sure that everything ran as smoothly as possible. Mr. Coleman felt they needed to be realistic about how long people could maintain their attention on Saturday's. He did not think it was a good idea to have an 8-hour meeting on a Saturday. Mr. Markham noted that some of the departments were simpler than others and could be fit into some of the regular budget meetings.

Mr. Markham asked what items left on the agenda needed to be dealt with tonight. Ms. Bensley would defer to the Acting City Manager as far as the actual contracts. Other than that, there were no items in 9 or 11 that had time limitations on them. Mr. Markham asked Mr. Coleman asked about the contracts. Mr. Coleman thought the most critical one was the electric one for PDS. Ms. Wallace added there were 2 individuals present to speak about item 11A1.

19. 6-E. CITY MANAGER RECRUITMENT SCHEDULE CHANGES

03:35:29

Ms. Bensley reminded Council that on the April 23rd Council meeting, she was given direction to finalize the schedule with GovHR. She found out after that that there was an additional conflict on dates that were already chosen, however the consultant had already scheduled her travel for those dates. In the interest of not losing one of the trips that was included in the contract, they had revamped the schedule a bit. One of the proposed revisions was that on June 11th the Council would meet in an executive session with GovHR to choose the candidates for the first round of interviews. She would look at that executive session taking place after the public session, with the public session being limited to two hours. This would take the place of the meeting that had been planned for the week of May 21st on the past timeline. She was also looking to shift the first-round interviews to the week of July 9th. That would be when Council would do the first round of interviews in executive session to choose candidates to move on to the next round. It would include a minimum of 2 special meetings, as GovHR was not available for the July 9th regular Council meeting. The week of July 23rd would be the events surrounding and including the second interviews of candidates with 2 consecutive dates being chosen for events. That would take

place of the meetings that had been scheduled for the week of June 25th. Those dates had been sent out to Council members on April 25th to assess availability and no one had responded to Ms. Bensley that they were unable to make those dates. She was just looking for Council approval to move forward with these proposed revisions and she would finalize the exact dates with GovHR after she got approval tonight.

After some discussion about Council members' schedules, it was decided that Council did not have a preference between July 10, 11 or 12th.

20. 7. RECOMMENDATIONS ON CONTRACTS & BIDS:

- A.** Recommendation Regarding Vendor Change for Contract No. 15-14 – Furnishing Labor and Equipment for Tree Pruning, Removal and Creek Clearance Operations

03:42:56

Mr. Brainard stated this was a simple vendor change for contract 15-14. One of the original vendors that had received part of the contract had gone bankrupt. Parks and Recreation wanted to award the tree pruning and dead wooding operations to Miller Tree Service.

There were no questions from Council and no public comment.

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: TO AWARD TREE PRUNING AND DEAD WOODING OPERATIONS TO MILLER TREE SERVICE AT THE COST OF \$50 PER NORMAL LABOR HOUR AND \$100 PER PREMIUM LABOR HOUR THROUGH THE END OF CONTRACT 15-14 ON MARCH 1, 2019.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

21. 7-B. RECOMMENDATION TO WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF POLICE VEHICLE TECHNOLOGY UPGRADES AND INSTALLATION SERVICES

03:44:11

Mr. McCormick stated they wanted to waive bid for the project going on to refurbish police vehicles from the technological standpoint. They had received bids and quotes and were ready to start work as soon as they had equipment.

There was no comment from Council. The Chair opened the discussion to public comment.

Ms. Huntley wondered what the reason was for waiving the bid. She thought it sounded like it had gone out for bid. Mr. McCormick answered that the reason they wanted to waive bid was because the equipment was very difficult to get a hold of from the application standpoint. If they went to bid, it would take much longer to go through. If the equipment was obtained through standard channels, it was much more expensive. They received a contract bid and contract from the State and this was bid was 12% less than what the contract bid from the State would be.

MOTION BY MR. CLIFTON, SECONDED BY MR. MOREHEAD: TO WAIVE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF AN HAVIS CONSOLE SYSTEM UP-GRADE IN THE AMOUNT OF \$11,870.16. THAT CONSISTS OF TWENTY-FIVE (25) CRADLEPOINT MODEMS AND LOW-PROFILE ANTENNAS IN THE AMOUNT OF \$32,798.25 AND INSTALLATION AND LABOR CHARGES OF \$5,625.00 FOR A TOTAL OF \$50,293.41.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

22. 7-C. RECOMMENDATION TO WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK, DELAWARE, TO UTILIZE POWER DELIVERY SOLUTION AS OUR CONSULTANT FOR DELDOT'S ELKTON ROAD PROJECT

03:46:40

Mr. Patel stated this was a recommendation to waive the bid process to utilize Power Delivery Solutions as the consultant for the DelDOT Elkton Road project.

There were no questions from Council and no public comment.

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK AND ENTER INTO A CONTRACT IN THE AMOUNT OF \$79,640 WITH POWER DELIVERY SOLUTIONS FOR ENGINEERING SERVICES NECESSARY FOR DELDOT'S ELKTON ROAD PROJECT TO BE REIMBURSED BY DELDOT.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

23. 8. **FINANCIAL STATEMENT:** None

24. 9. **ORDINANCES FOR SECOND READING & PUBLIC HEARING:**

A. **Bill 18-10** – An Ordinance Amending Chapter 22, Police Offenses, Code of the City of Newark, Delaware, to Define and Prohibit Unlawful Activities on Rooftops

03:47:48

Ms. Bensley read the item into the record.

MOTION BY MR. MOREHEAD, SECONDED BY MS. CLIFTON: THAT THIS BE THE SECOND READING AND PUBLIC HEARING FOR BILL 18-10.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

Mr. Morehead explained that Newark had no laws to keep people who did not belong on roofs from partying on roofs. The Newark Landlord Association and some other people had asked for this type of thing. The only 2 things the City had now was that the police could enforce disturbing of the peace or code enforcement officers could enforce the probability that people on a roof were exceeding the designed weight limit. Mr. Morehead said this wording had been copied and amended slightly from Pittsburgh's Code. It was basically intended to allow the police to ask people to get off a roof. If there was no guardrail they did not belong up there. Mr. Morehead noted there was wording in the ordinance that allowed if someone owned a house, they could go up on the roof. Mr. Morehead made the comparison that if someone did not own the house and was on the roof, it was like driving a car in which someone was not wearing a seatbelt. It was still the owner's problem.

Ms. Wallace asked for clarification about homeowners. She asked if it was correct that A was for homeowners and B was for rental properties. Mr. Morehead said that it was above A and said, "or where permitted by the owner." This meant that you could be on your own roof and anyone you allowed could be on your roof. Mr. Bilodeau pointed out that a landlord could put in their lease that people were allowed on the roof. Ms. Wallace was not referring to homeowners doing home repairs, but homeowners who may also be inappropriately on the roof with others. She noted that there were homes in the City being purchased by students and their families that became party homes as well. She asked how this ordinance would cover that issue. Mr. Morehead said it probably would not but right now there was nothing. Mr. Markham suggested bringing that issue back as they were not going to amend it now.

The Chair opened the floor to public comment.

Ms. Huntley had also noticed the hole that Ms. Wallace had pointed out. Ms. Huntley felt that if Council thought behavior should be illegal, it should be illegal regardless of whether someone owned a house or did not own a house. She suggested that if Council eliminated the owner exception from the law, they may want to consider putting in a procedure where a homeowner could ask for an exemption to the prohibition. In the exceptions as they were currently written, it also said that people were allowed to go on the roof for repair and maintenance of the roof. Ms. Huntley suggested striking, "of the roof" so that it included repair and maintenance for the gutters, chimney and other things on the roof that were not

necessarily part of the roof. She also thought inspection would be an appropriate reason to be up on the roof that should be exempted.

Dr. Morgan asked if it was constitutional for a municipality to forbid tenants from doing something on a property that they were renting if it was permitted to the owner. He asked whether they would get into trouble with the Equal Protection Clause. Mr. Markham thought that was entry not exterior. Mr. Bilodeau said the question was that the landlord or owner could put that in his or her lease if he or she really wanted to extend that right to his tenants to be on the roof. If he or she did not put it in the lease, Mr. Bilodeau did not think it was a constitutional issue.

MOTION BY MR. MARKHAM: TO APPROVE THE ORDINANCE AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

(Secretary's Note: There was no second for this motion.)

(ORDINANCE NO. 18-10)

25. 10. **RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING & DEVELOPMENT DEPARTMENT:** None

26. 11. **ITEMS SUBMITTED FOR PUBLISHED AGENDA:**

A. **Council Members:**

1. **Resolution No. 18-__ : Requesting the Delaware River Basin Commission Enact a Ban on Natural Gas Development, Fracking and All Related Activities Throughout the Delaware River Basin – Councilwoman Wallace**

03:54:32

Ms. Bensley read the item into the record.

Ms. Wallace asked if anyone had any questions. She noted there were 2 individuals present from advocacy groups that could answer questions.

The Chair opened the floor to public comment.

Stephanie Herron of the Delaware Chapter of the Sierra Club stated the Sierra Club strongly supported this resolution and appreciated Council's consideration. Ms. Herron explained that fracking was the process of drilling for natural gas deep underground which had been associated with groundwater contamination in multiple parts of the United States and with health concerns from water contamination. Ms. Herron advised Delaware was part of the Delaware River Watershed and they would not have natural gas drilling here in Delaware. However, Delaware was at the receiving end of all the water that came down the Delaware River Basin from New York, New Jersey and Pennsylvania. What happened upstream had a very dramatic impact on the water quality downstream. Delaware really had nothing to gain from fracking in the watershed but had a pretty significant stake for potential losses if Delaware's water was contaminated by drilling.

Ms. Herron advised the Delaware River Basin Commission, which regulated water quality and quantity in the watershed, was considering regulations which would propose fracking for natural gas in the watershed, which is something that the Sierra Club would strongly support. However, there was room for the potential dumping of fracking wastewater from created and other watersheds in Delaware's watershed the way that the regulations were currently worded. The Sierra Club was encouraging the commission to make those slight, very important, revisions that would completely ban all fracking and associated activities upstream of Delaware.

Tracy Carluccio, Delaware Riverkeeper Network, said she was representing members in the area. Ms. Carluccio advised the White Clay Creek Watershed was part of the Delaware River Watershed. It was a wild and scenic river and had very important recreational and tourism resources associated with the protection of the White Clay Creek. It was designated in 2000 and was the only river in the United States that the entire watershed was put into the Wild and Scenic Rivers program all at once; that was the tributaries as well as the main stem. They had missed a few places up in the upper parts, so they had expanded it a couple of years ago. This was a recognition of the national level by Congress of how

important these resources were. Ms. Carluccio was concerned with the water quality issues that were brought up because the fracked wastewater would most likely be discharged into the estuary and the bay portion of the Delaware River Watershed which could affect groundwater as well as surface water resources in Delaware. She was also really concerned about the coastal resources and the special White Clay Creek and Christina River sources, especially because they were so unique and irreplaceable, as recognized by Congress.

Ms. Huntley wanted to point out that the Delaware River Basin Commission was pretty unique in that it had really strong protections for all the states that were part of the Delaware River Watershed and that they made decisions by unanimity. The State of Delaware was represented on the Commission and the State, by the virtue, had a veto power. Ms. Huntley recommended that Council work closely with the governor. He had an appointee who was a State Geologist named David Wunsch. Mr. Wunsch was Delaware's representative on the Delaware River Basin Commission and did negotiations for the State of Delaware. She suggested reaching out to him if she wanted the State to take a position that represented the desire of the City.

Mr. Markham was pleased that Ms. Wallace had added a significant amount of research to this resolution. He noted that many times resolutions could lack detail. Ms. Wallace had tied this back to the City's drinking water which he thought was important.

MOTION BY MS. WALLACE, SECONDED BY MR. HAMILTON: TO APPROVE THE RESOLUTION REQUESTING THE DELAWARE RIVER BASIN COMMISSION ENACT A BAN ON NATURAL GAS DEVELOPMENT FRACKING AND ALL RELATED ACTIVITIES THROUGHOUT THE DELAWARE RIVER BASIN.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

(RESOLUTION NO. 18-K)

11-B. Others: None

27. Meeting adjourned at 11:11 p.m.

Renee K. Bensley, CMC
Director of Legislative Services
City Secretary

/sjc